

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

**May 12, 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) Notice Board for Virtual Meeting Information, or page 3 of packet)

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Consent Agenda
  - a. Approve Minutes – April 14, 21, 28 Regular Meetings & May 8 Special Meeting
  - b. Receipts & Disbursements Report
  - c. 'State-County Aerial Imagery' First Amendment Agreement
  - d. Zoning Ordinance Amendments – SECOND READING
    - a. Lighting
    - b. Setbacks
    - c. Accessory Buildings
  - e. Job Description Amendments – Zoning Administrator
4. Consideration of Rezoning Three Parcels on South 11<sup>th</sup> Street – FIRST READING
5. Consideration of Livestock & Honey Bees Ordinance Amendments – FIRST READING
6. Consideration of Landscaping Ordinance Amendments – FIRST READING
7. Consideration of Sanitary Sewer USDA Phase 1
  - a. Conditional Award Resolution to Award the Construction Contracts
  - b. Bond Authorizing Resolution
  - c. Rural Development Loan Resolutions
8. Update on Township COVID 19 Response
9. Other Township Business
10. Public Comment
11. Board Member Comments
12. Adjournment

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

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

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

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

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

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

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

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

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

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

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

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

## 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: 890-9435-3954**

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: **890-9435-3954#**

### 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.**



May 5<sup>th</sup>, 2020

**Mtg Date:** May 12<sup>th</sup>, 2020  
**To:** Township Board of Trustees  
**From:** Ben Clark, Zoning Administrator & GIS Specialist  
**Subject:** Township Participation in the State MiSAIL data sharing program

## **OBJECTIVE**

Township Board approval to participate in the State of Michigan's MiSAIL (Michigan Statewide Authoritative Imagery and LiDAR) program via the Kalamazoo County Planning & Development Department.

## **BACKGROUND**

Beginning in 2005 and recurring regionally approximately every five years, The State of Michigan's Center for Shared Solutions within the Department of Technology, Management and Budget has been operating a geospatial data sharing program whereby state funded aerial imagery is shared with County governments in exchange for property parcel GIS data. Property data shared with the State includes parcels' spatial qualities as well as information on assessed values, owners' names, and other publicly available attributes. In 2019, the MiSAIL program captured aerial imagery for Southwest Michigan, and municipalities in Kalamazoo County are presented with the opportunity to acquire this resource with no additional outlay cost. The data provided by the state will be available for not only Township staff to use but will also be at our disposal for online GIS applications, which will improve tools created by the Township for public use. Current aerial imagery available for our online maps, provided by the vendor ESRI, is of relatively poor visual quality and was captured during a time of year when trees were in full leaf, obscuring much of the underlying ground structures, and other elements of the built environment. Quality standards for MiSAIL imagery include a leaf-off requirement at the time of capture.

Typically, Oshtemo Township and other area municipalities partner with Kalamazoo County approximately every three years to independently hire a firm to fly the county and collect aerial imagery for internal use. This information is a crucial resource and is used by essentially all departments in the Township. Within the three-year intervals between flights, much can change in the Township however, and the opportunity to obtain aerial imagery from 2019—an "off" year—is very appealing. Staff does note however that the resolution of the imagery provided by the MiSAIL program is classified as 12-inch (one pixel in the image being one square foot in size on the ground), and the Township usually pays for higher resolution three-inch imagery during the triennial County coordinated flights. Regardless, the coarser imagery from MiSAIL is still well worth the exchange of our parcel information.

**INFORMATION PROVIDED**

- Copy of the MiSAIL agreement presented to the County from the State of Michigan Department of Technology, Management and Budget
- The original 2015 *Resolution to Allow Kalamazoo County Access to Existing Geographic Information Systems (GIS) Data* document
- Draft of the amended *Resolution to Allow Kalamazoo County Access to Existing Geographic Information Systems (GIS) Data* document
- Article from ESRI (the makers of ArcGIS software) on the MiSAIL program

**STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE**

Staff requests Board of Trustees approval of the resolution to amend the *Kalamazoo County Access to Existing Geographic Information Systems (GIS) Data* document, allowing Kalamazoo County to share Oshtemo Township's parcel data on the Township's behalf in order to obtain 2019 12-inch aerial imagery from the MiSAIL program.



**Michigan Statewide Authoritative Imagery and LiDAR Program (MiSAIL)**  
**Intergovernmental Agreement**  
**For Data Exchange**  
**Between Kalamazoo County and DTMB**

This Intergovernmental Agreement (Agreement) is between Kalamazoo County, a Constitutional and Municipal Corporation, 201 W Kalamazoo Ave, Kalamazoo, MI 49007 (Partner) and the Michigan Department of Technology, Management and Budget, through its Center for Shared Solutions, P.O. Box 30026 Lansing, Michigan, 48909 (DTMB). In this Agreement, the Partner and DTMB may be referred to individually as “Party” or jointly as “Parties.” Partners may include, but are not limited to, state, local and federal government entities.

In consideration of the mutual promises, obligations, representations and assurances in this Agreement, the Parties agree as follows:

**1. Purpose**

Pursuant to the Enhanced Access to Public Records Act, 1996 PA 462, MCL 15.441 *et seq.*, the Urban Cooperation Act of 1967, MCL 124.501 *et seq.*, and the authority granted to the Director of DTMB pursuant to Executive Reorganization Order No. 2009-39, Section V(E), MCL 18.441, the Partner and DTMB enter into this Agreement for the purpose of making Geographic Information System (GIS) data and digital orthoimagery data (Imagery) owned and/or maintained by the respective Parties available to both Parties, without fee or cost, to assist the Parties in performing statutory and governmental duties and activities that benefit DTMB or the Partner, specifically the scope of work described in Exhibit A.

**2. Definitions**

**Data originator:** The author or owner or representative of the owner of the GIS data and information contained within the GIS data.

**Geographic Information System data or GIS data or Data:** The output from a Geographic Information System as defined by MCL 15.442(b) or the saved

output (datasets) covered by this Agreement, as more specifically identified in Exhibit A, and provided by either Party pursuant to MCL 15.441, *et seq.* GIS data does not include derivative works developed by DTMB or data produced by DTMB from GIS data.

Digital orthoimagery data – aerial imagery collected by the State of Michigan State) as part of the State’s collection efforts per the specifications defined in the State’s contract # 071B6600034 (Contract). A copy of the Contract is available online at: [http://www.michigan.gov/documents/localgov/6600034\\_516430\\_7.pdf](http://www.michigan.gov/documents/localgov/6600034_516430_7.pdf)

**Third Party:** An organization or individual requesting GIS data that is not a party to this Agreement. Third Party does not include any organizations or individuals specifically identified as intended pass-through data recipients under Exhibit A.

### 3. Coordination Representatives

To provide for consistent and effective communication between DTMB and the Partner, each Party shall appoint a Coordination Representative to serve as its central point of contact on matters relating to this Agreement. The Coordination Representatives for this Agreement are listed below.

Everett Root  
DTMB Center for Shared Solutions  
Romney Building, 10<sup>th</sup> Floor  
111 S. Capitol St.  
Lansing, MI, 48933  
Phone No. 517-373-7910  
Fax No. 517-373-2939  
E-mail [roote@michigan.gov](mailto:roote@michigan.gov)

Lotta Jarnefelt  
Director, Planning and Development  
Kalamazoo County  
201 W Kalamazoo Ave  
Kalamazoo, MI 49007  
(269) 384-8112  
[LMJARN@kalcounty.com](mailto:LMJARN@kalcounty.com)]

### 4. Responsibilities of the Parties

The following paragraphs identify responsibilities of the parties involved:

- a. **DTMB Responsibilities.** DTMB will provide the Partner, in accordance with the purpose, terms, and conditions of this Agreement and implementing arrangements, as appropriate, with the following:

- i. Protection and good stewardship of the Partner's data;
  - ii. Those responsibilities set forth in Exhibit A.
- b. **Partner Responsibilities.** The Partner will provide DTMB, in accordance with the purpose, terms, and conditions of this Agreement and implementing arrangements, as appropriate, with the following:
- i. GIS dataset updates, without fee or cost, through the data exchange mechanism identified in Exhibit A;
  - ii. Protection and good stewardship of the State's data;
  - iii. Those responsibilities set forth in Exhibit A.
  - iv. A copy of their enhanced access policy and fee schedule(s)
  - v. Updates to fee schedule throughout duration of this agreement

## **5. GIS Data Usage and Distribution Terms**

- a. The County authorizes its GIS data to be used as identified in Exhibit A.
  - i. The County has secured permission from 10 townships, 1 village and 1 city who own their respective GIS parcel layers to enter into the MiSAIL agreement on their behalf.
- b. In the event that a Third Party requests GIS data, one of the following three scenarios will apply:
  - i. If the Partner receives a request for its own Data, that request will be subject to the Partner's local Enhanced Access to Public Records policy. There is no need for the request to go through or be approved by DTMB.
  - ii. In the event that DTMB receives a request for Data provided by the Partner, such requests will be honored pursuant to DTMB's Enhanced Access to Public Records policy 2410.04 and associated fee schedule. In accordance with its policy, DTMB will pass on any applicable fees pursuant to the Partner's local Enhanced Access to Public Records policy.
  - iii. If the Partner receives a request for any Data that it received from DTMB, it will provide the Data in accordance with its local Enhanced Access to Public Records policy, and pass on any applicable fees to DTMB as established under DTMB's Enhanced Access to Public



Records policy 2410.04 and associated fee schedule. The Partner may also charge an administrative fee to distribute the Data as outlined in its local Enhanced Access to Public Records policy.

- c. The Parties agree to exercise all applicable exemptions available under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*, to ensure that the GIS Data will not be re-distributed to a Third Party.

**6. GIS Data Disclaimer**

- a. All GIS data is provided “as is.” The Parties expressly disclaim any and all warranties, express or implied, including, but not limited to, any warranties of accuracy, reliability, title, merchantability, non-infringement, fitness for a particular purpose, or any other warranty, condition, guarantee or representation, whether oral, in writing, or in electronic form including, but not limited to, the accuracy or completeness of any information contained in or provided by the GIS data. The Parties do not represent or warrant that access to GIS data will be uninterrupted or that there will be no failures, errors, omissions, or loss of transmitted information.
- b. In no event shall either Party be liable to the other for any special, indirect, or consequential damages, or any damages whatsoever resulting from loss of use, data, or profits arising out of or in connection with the use or performance of GIS data under this Agreement.

**7. Image Service Contact**

The MiSAIL program includes partner access to a secure imagery viewing service known as the Michigan Imagery Solution (MIS), managed by the State of Michigan, DTMB, Center for Shared Solutions. Service will be accessible for up to five County desktop applications and one desktop application for each Township, Village, and City within the County. Each entity may also consume the imagery in one web-based application, as needed.

Image Service Contact designated per signature is the single point of contact for the DTMB for all technical considerations and inquiries regarding MIS access by partner.

Image Service contact	Email	Phone
Lotta Jarnefelt	lmjarn@kalcounty.com	269-384-8115

**8. Effective Date and Duration**

This Agreement becomes effective upon the date of the last approving signature and will remain in effect indefinitely until terminated unless superseded, rescinded, or modified by written agreement of both Parties.

## **9. Amendment and Modification**

This Agreement may be amended or modified only by written agreement of both Parties.

## **10. Termination**

- a. Either Party may terminate this Agreement with sixty (60) days written notice for any reason, or for no reason.
- b. Upon termination of this Agreement, GIS Data provided to DTMB under this Agreement by the Partner will be retained by DTMB, but will no longer be updated. Remaining GIS Data shall be marked that it has not been updated as of the date of the last update prior to termination.

## **11. Dispute Resolution**

In the event of a dispute between the Parties, the Partner and DTMB agree to use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the Parties.

## **12. Assignment**

This Agreement may not be assigned, delegated, or otherwise transferred by the parties, nor may any right, duty, or obligation under this Agreement be assigned, delegated, or transferred, unless otherwise provided for in this Agreement.

## **13. Reservation of Rights**

- a. This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, or immunity of the Parties. Nothing in this Agreement is a waiver of governmental immunity by either Party.
- b. Unless this Agreement expressly states otherwise, it does not, and is not intended to, transfer, delegate, or assign to the other Party, any civil or legal responsibility, duty, obligation, duty of care, cost, legal obligation, or liability associated with any governmental function delegated or entrusted

to either Party under any existing law or regulation.

**14. No Third-Party Beneficiaries**

Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, or any other right in favor of any other person or entity.

**15. Applicable Laws**

The applicable statutes, regulations, directives, and procedures of the State of Michigan shall govern this Agreement and all documents and actions thereunder.

**16. Entire Agreement**

This Agreement represents the entire Agreement between the Parties and supersedes all other Agreements between the Parties governing the matters described. The language of this Agreement will be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

The undersigned execute this Intergovernmental Agreement on behalf of the Parties and by doing so, obligate and bind the DTMB and the Partner to the stated terms and conditions.

\_\_\_\_\_  
ERIC SWANSON  
Director  
Center for Shared Solutions (CSS)  
Romney Building, 10<sup>th</sup> Floor  
111 S. Capitol St.  
Lansing, MI, 48933

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Julie Rogers  
Chair  
Kalamazoo County Board of Commissioners  
201 W Kalamazoo Ave  
Kalamazoo MI 49007

\_\_\_\_\_  
DATE

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Timothy A. Snow  
Clerk/Register  
Kalamazoo County  
201 W Kalamazoo Ave  
Kalamazoo MI 49007

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DATE

DRAFT

**Exhibit A**  
**Intergovernmental Agreement**  
**For Data Exchange Between Kalamazoo County and DTMB**  
**[Date]**

Attributes to be included with each data category will vary. DTMB has a standard data schema for each data type that will be shared with the partner. Variations between local data and the DTMB standard will be reviewed prior to data submission.

**Description of Partner Data:**

Tax parcels: Geometry and attributes for Community Parcel Repository

Address points: Geometry and attributes for structure point location at rooftop, driveway, geocoded along road centerline, or parcel centroid.

Road Centerlines: Geometry and attributes

**Description of DTMB Data:**

12" pixel resolution, 4-band (red, green, blue, near-infrared) aerial imagery. Specification document available at: [http://www.michigan.gov/som/0,4669,7-192-78943\\_78944\\_78949\\_78952\\_63834---,00.html](http://www.michigan.gov/som/0,4669,7-192-78943_78944_78949_78952_63834---,00.html)

**Data Exchange Process: select all that apply**

- Digital Upload (file upload or through feature service)
- External Hard Drive (Partner will receive a copy of the most recent imagery)
- Other \_\_\_\_\_

**Data Use: select one for each data category**

**Parcels:**

- Publicly Available
- Available for use by all State of Michigan Agencies

**Address Points:\***

- Publicly Available
- Available for use by all State of Michigan Agencies

**Road Centerlines:**

Publicly Available

**Update Schedule:**

**Parcels:** 1-2 times per year

**Address Points:** 4 times per year

**Road Centerlines:** 4 times per year

\*The Center for Shared Solutions understands that the county is in the process of creating this data in a geographic format and agrees to receive the data from the county as it becomes available.

**Optional pass through to the United States Census Bureau:**

The DTMB, Center for Shared Solutions (CSS) is the State of Michigan's liaison to the US Census Bureau (USCB) for local data collection efforts in support of various USCB geospatial data programs.

**DTMB is authorized to pass data through to United States Census Bureau**

**Address Points:**

Yes

No

**Road Centerlines:**

Yes

No

**RESOLUTION TO ALLOW KALAMAZOO COUNTY ACCESS TO EXISTING GEOGRAPHIC INFORMATION SYSTEMS (GIS) DATA.**

WHEREAS, Kalamazoo County is maintaining and developing a countywide Geographic Information System (GIS); and

WHEREAS a major part of this process is maintaining a countywide mapping website; and

WHEREAS the countywide mapping website allows both governmental units and the public to access GIS information that is created by the townships,

NOW, THEREFORE, BE IT RESOLVED, that the County and Oshtemo Charter Township (otherwise known as Township) agree on the following provisions:

1. Provisions of Agreement:

Kalamazoo County will continue to receive downloads of the GIS data created by the Township. The county will include the data in the countywide mapping website and in the internal County GIS.

In return, the County will continue to maintain the mapping website. The County will also continue to act as a facilitator for selling GIS data and remit income from any such sales to the Township as outlined below.

2. Roles of Township and County:

The roles of the Township and the County in this agreement are as follows:

The Township's role:

- The Township allows the County to receive the Township GIS data and updates for the County mapping website and the internal county GIS.

The County's role:

- The County will maintain a mapping website.
- The County will keep the street centerline layer updated.
- The County will make the 2004, 2009 and 2013 aerial photography and any subsequent imagery available on the mapping website.
- The county will not request contributions towards aerial photography flyovers from townships that share their GIS data with the County, unless the township opts for a higher accuracy than 12" resolution imagery.
- The County will make suitable new data layers available to the township GIS's as they become available.
- The County will act as a facilitator for selling GIS data and maps. A signed Data Transmission Agreement (Attachment A) is required when receiving GIS data from the County.
- The County will remit the income from the sales of GIS digital data created by the Township to the Township as defined in the GIS Fee Schedule and Order Form (Attachment B). The County will charge the client a GIS data processing fee as defined in the Fee Schedule.
- Fees charged for other products, such as print-outs of GIS maps, are exempt from remittance to the Township, as income from this source is expected to be minimal.
- The Township may sell digital or paper products of their data.
- The County may exempt certain uses of GIS data from the fees defined in the Fee Schedule and Order Form when the use of the data is deemed to be for the common good and not for profit. Examples: student projects, projects by non-profit organizations.





Attachment A



Department of Planning & Community Development

Lotta Jarnefelt, Director

201 W Kalamazoo Ave, Rm 101

Kalamazoo MI 49007

Tel 269-384-8112

Fax 269-383-8920

Email plngis@kalcountry.com

www.kalcountry.com



DATA TRANSMISSION REQUEST				Date
USER				
Billing Address		City	State	ZIP
Requested by	Phone	Fax	Email	
<p>As a duly authorized representative of the above named User, I, the undersigned, understand and agree that the files I have requested on behalf of the User shall be used for the purpose(s) stated below and for no other purpose.</p> <p>It is further agreed that any file provided to the User by the Department of Planning and Community Development, County of Kalamazoo, Michigan (the County) <b>shall not be utilized, dispersed, sold or otherwise transferred to any other person or entity</b> without the express written permission of the County.</p> <p>As this Request is approved by the County, the User understands and agrees: (1) that the County, Townships, Cities and Villages provide no warranties of any kind; (2) that use of each requested file is at the User's sole discretion and risk; and (3) that the County, Townships, Cities and Villages and their officers, employees and agents shall under no circumstances be liable for any damages whatsoever incurred by User or any third party arising out of or related to this Request.</p>				
Requested Data				
Purpose for which requested data is required				
Price for above data				
<b>By signing this request, I affirm that I am a duly authorized agent of the User</b>				
Name		Signature		
Title				
Date				
<b>APPROVAL</b>				
Signature of County's authorized agent:				
Name		Signature		
Title				
Date				

Attachment B



Department of Planning & Community Development

Lotta Jarnefelt, Director

201 W Kalamazoo Ave, Rm 101

Kalamazoo MI 49007

Tel 269-384-8112

Fax 269-383-8920

Email plngis@kalcounty.com

[www.kalcounty.com](http://www.kalcounty.com)



GIS FEE SCHEDULE AND ORDER FORM				Init.	Order Date
Bill to/Company Name				Req. Completion Date	
Address			City	State	ZIP
Ordered by		Phone	Fax	Email	
Description		Fee	Qty	Total	
Custom Mapping	PRINTING PRICES and STANDARD MAPS 24# bond paper maximum 36" width color or black and white	Letter (8.5 x 11) (size A) or Legal (8.5 x 14)	5.00		
		Up to 24 x 36 (size B, C, or D)	15.00		
		Up to 36 x 60 (size E)	20.00		
	Map composition / design / cartography (required for all custom mapping)	per hour, 1/2 hour min.	40.00		
	Glossy paper (ADDITIONAL)	per A-size page	0.25		
		per large format print	6.00		
	Export to PDF and transmission (in lieu of printing)	per map	3.00		
Digital Data data transmission agreement req'd	Parcels (add GIS Processing Fees for extraction and handling; minimum \$20.00)	Each (min. \$20.00)	0.50		
		Jurisdiction	varies		
	Annual updates available for 50% discount	County, excl. City of Kal&Portage	14,000.00		
		Georeferenced Aerial Imagery Pictometry / 2009, 2013 / color Orthophotos / 2004 / black & white export available to JPG, TIF, GRID, and other formats County-Produced GIS Layers	Section	40.00	
	Township	750.00			
	County	3,500.00			
GIS Processing/Analysis Fees, per hour <i>minimum \$20.00</i>			40.00		
CD-ROMs (each)			3.00		
Shipping and handling <i>up to 2 lbs.</i>			5.00		
Specific Instructions/Description of Work (attach additional sheets if necessary)					
File path					
			Date Filled	Init.	Price

## FIRST AMENDMENT TO RESOLUTION

This First Amendment is made as of \_\_\_\_\_, 2020 to the *Resolution to Allow Kalamazoo County Access to Existing Geographic Information Systems (GIS) Data* document effective as of January 20, 2015, by and between County of Kalamazoo (“County”) and Oshtemo Charter Township (“Township”). County and Township are collectively referred to herein as the “Parties” or individually as “Party”.

*WHEREAS*, the County and the Township wish to amend certain terms and conditions of the Resolution, and County and the Township consent to and approve the Amendment to the Resolution as set forth herein.

*NOW, THEREFORE*, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Effective Date.** The Effective Date of this Amendment shall be once signed by both Parties and remains in force until either Party wishes to withdraw.
2. **Roles of Township and County.** *Section 2. Roles of Township and County - The Township’s Role* of the Resolution is hereby amended to add the following bullet point:
  - The Township permits the County to sign, on behalf of the Township, the Michigan Statewide Authoritative Imagery & Lidar Program (MiSail) Agreement with the State of Michigan (“State”) for the purpose of making Geographic Information System (GIS) data owned by the Township and digital orthoimagery data (Imagery) owned by the State available to the State, Township and County, without fee or cost, to assist the State, Township and County in performing statutory and governmental duties and activities that benefit DTMB or the State, Township or County, specifically the scope of work described in Exhibit A.

Unless otherwise modified by this Amendment, all terms and conditions contained in the Resolution shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the Effective Date.

**COUNTY OF KALAMAZOO**

**OSHTEMO CHARTER TOWNSHIP**

By: \_\_\_\_\_  
*(signature)*

By: \_\_\_\_\_  
*(signature)*

*Julie Rogers, Chair*  
*(print name)*

\_\_\_\_\_  
*(print name)*

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

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

By: \_\_\_\_\_  
*(signature)*

*Timothy A, Snow, Clerk/Register*  
*(print name)*

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

# Michigan Moves Statewide Aerial Imagery to the Cloud

[esri.com/about/newsroom/arcnews/michigan-moves-statewide-aerial-imagery-to-the-cloud](https://esri.com/about/newsroom/arcnews/michigan-moves-statewide-aerial-imagery-to-the-cloud)

October 27,  
2019

The State of Michigan is a leader in technology use. In the latest Digital States Survey, conducted by the Center for Digital Government, Michigan landed a top-five showing, thanks, in part, to its innovative imagery strategy. The Michigan Imagery Solution (MIS) is a cloud hosted repository of imagery that's fed by the Michigan Statewide Authoritative Imagery & LiDAR (MiSAIL) program, which captures fresh imagery and elevation data for the state on a five-year revolving basis.



Imagery is supposed to be collected when deciduous trees don't have leaves and lakes have no ice. This is difficult to do on Michigan's Upper Peninsula, so compromises—like having some ice on a lake—must often be made.

An important aspect of MiSAIL is that the state and counties participating in it share the imagery acquisition fees. This has saved Michigan \$3 million, which contributed to its receiving the survey's prestigious A grade. But while this figure is a compelling return on

investment, it's not the whole story. It doesn't include the time and money the state saves on server maintenance. It doesn't reveal the added insights gained from having up-to-date imagery, or the time saved by streaming imagery as a service rather than having to find the latest image on a server. It's also hard to put a dollar figure on how beneficial the new levels of cross-governmental collaboration are.

"We have a strong history of a statewide approach to geospatial data sharing in Michigan, going back to the Michigan Geographic Framework we released in 2001," said Everett Root, outreach specialist at the State of Michigan's Office of Technology Partnerships. "The idea has always been to make more data open and shared across the state."

Michigan's collaborative imagery collection began slowly, at the project scale, before becoming a state program.

"Sharing imagery costs with counties started in 2005 with some of the better-resourced counties [that have] higher populations," Root said. "In 2009, when many of the same counties were getting ready to fly again, we found that we only had imagery for 40 of our 83 counties. Rather than just refresh imagery with past partners, we set up a statewide imagery program designed to collect imagery for 20 percent of the state each year."

## Constant Collection Despite—and Because of—Clouds

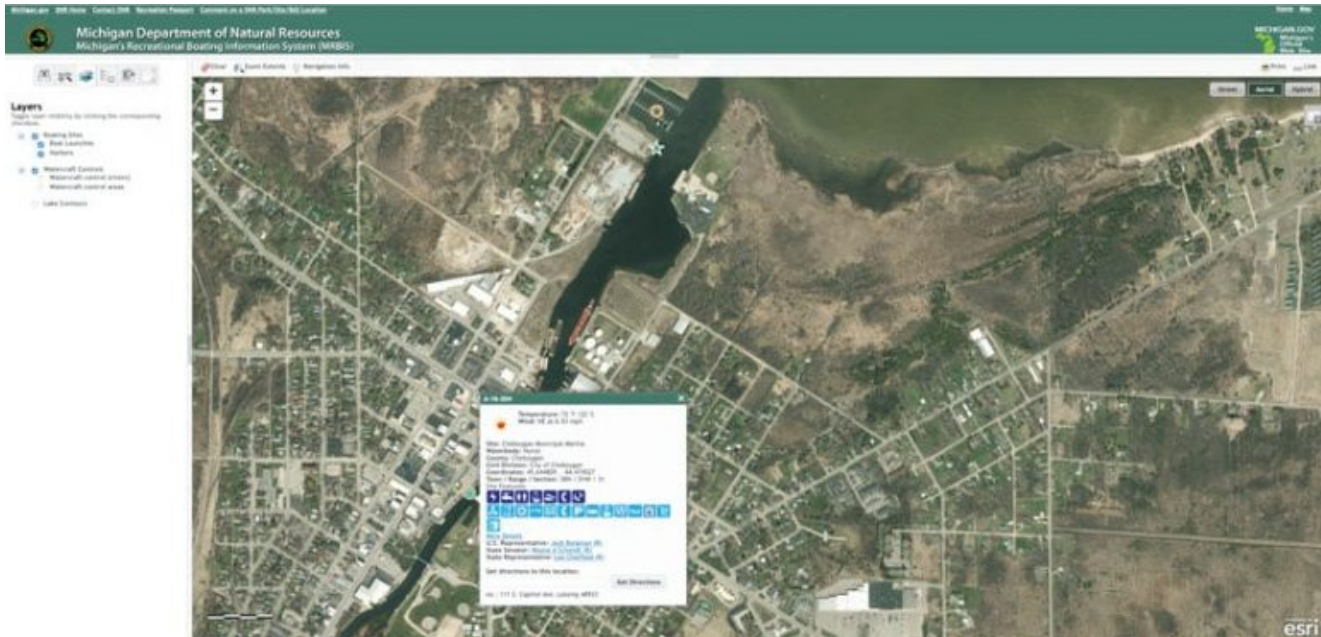
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Every spring, Michigan's contracted imagery provider collects imagery for the year's quota of counties. The state specifies that imagery must be collected when deciduous trees are free of leaves, the ground is free of snow cover, lakes are free of ice, rivers and streams are within their normal banks, and the ground is unobscured by fog.

"These are the usual imagery capture standards, but in Michigan, there aren't many days in the year when all of this happens," said Root. "We'll start with some snow and ice on the ground if we have to."

The parameters prove particularly tough on Michigan's Upper Peninsula, which can get more than 300 inches of snow per season. Oftentimes, a compromise must be made, since many areas still have snow on the ground when leaves start to emerge on trees.

"The Great Lakes can also be challenging," added Root. "We can be in the air by 10 a.m., and by noon, clouds start rolling in off the lake and we're done for the day."



The Michigan Department of Natural Resources (MDNR) uses imagery for forest inventories, helping hunters find public hunting land, showing boating access sites (as this map does), and more.

Although these kinds of vaporous clouds can make imagery collection difficult, the state still amasses a lot of imagery, which is where its technological cloud comes in.

“We had Michigan State University hosting our aerial photography since 2011, but that was just one server that needed memory and software upgrades, and we had just one failover server without any load balancing,” explained Root.

Having to incorporate data from 2005 meant that the data volume became overwhelming pretty quickly. So to make data storage and sharing efficient, Michigan’s Department of Technology, Management and Budget (DTMB) instituted a cloud-first provision in the Michigan Digital Strategy.

“The cloud made good sense for the sheer amount of data [the state was collecting],” said Mark Holmes, the geospatial services manager for DTMB.

“The move to Esri Managed Cloud Services provided an opportunity to apply best practices —managing users, setting up accounts, and providing streaming services for access in a cloud-based way,” continued Root.

The MIS was one of the first projects to use Esri Managed Cloud Services to host and serve imagery and lidar data, porting more than 25 terabytes of imagery at the start in 2016. That data volume has now more than doubled.

## Bartering Imagery for GIS Data

As part of the imagery acquisition program MiSAIL, the state launched an innovative initiative in 2017 to exchange its 12-inch-resolution imagery for authoritative GIS data from counties and local governments—without funds changing hands.

“A lot of counties jumped right on that offer, and we’ve been working on creating partnerships, getting agreements in place, and transferring data,” said Root.

Bringing in local, authoritative GIS data to inform programs across all divisions at the state level benefits both state and local objectives. Counties provide property boundaries, associated assessment data, address points, and road centerline data, and in exchange, they receive fresh imagery from the state.

“Some counties have never had aerial imagery before, and we gain local, authoritative GIS data,” Root said. “Everyone benefits.”

While the state requires imagery capture at 12-inch resolution, local partners in this program can “buy up” and increase it to 6-inch or 3-inch resolution for areas of 10 square miles or more. This simply requires the imagery capture company to fly at the appropriate altitude and flight line spacing.

“It’s a very affordable way for counties and local governments to get high-resolution imagery of their entire county or just their urban areas,” Root said.



The Environmental Mapper, from the Michigan Department of Environment, Great Lakes, and Energy (EGLE), shows various types of land use throughout Michigan, including places that are subject to specific ordinances (in blue) and development restrictions (in brown), as well as brownfield areas that are under redevelopment (highlighted).



DTMB's online imagery streaming service provides an added incentive from the state. When a county signs up to partner in the exchange program, in addition to receiving the latest imagery in an offline format that it can import into its own GIS, the county receives accounts for the image service. The image service allows it to stream all the imagery the state has, beyond just the latest. And the imagery tiles are served in three visible bands, as well as near-infrared.

Many people—including archivists, archaeologists, and environmental engineers—are excited about the ability to see how land use has changed for specific sites over the decades.

## Data Users, and Uses, Keep Increasing

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Streaming imagery can be delivered to both desktop users and users of configured apps. State and local government departments have built a large variety of apps to take advantage of the imagery input.

In addition, many departments throughout the state have employed the imagery to meet specific mandates.

The Michigan Department of Transportation (MDOT) pioneered much of the state's data sharing based on its need for imagery to verify a road's existence and to capture new roads. In fact, it was MDOT that kicked off the initial cost-sharing initiative with counties.

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) administers a program that promotes shoreline protection to reduce erosion. Imagery provides a view of past outcomes to help EGLE recommend proper practices that minimize the effects of waves and ice on shoreline loss.

The Michigan Department of Natural Resources (MDNR) uses the imagery for forest inventory and to advise commercial foresters and private forest owners on practices that balance long-term timber production and the preservation of environmentally significant forestlands. The near-infrared imagery helps foresters detect tree species, vegetation health, and indicators of disease and forest pests. Imagery also forms an important backdrop for MDNR's Mi-HUNT app, which helps hunters find public hunting land.

For the Michigan State Police, imagery provides an important input to enhance situational awareness. The department relies on state-derived imagery to furnish a "before" picture that it compares to mission-specific imagery it captures from helicopters.

With so many uses—and so much more data coming online—the number of MiSAIL accounts continues to climb.

"We have a constant increase in users and use of the data," said Root. "The most common

reaction from new users is from those who have never seen high-resolution imagery and are instead used to looking at images that are free and available online. Looking at leaf-off imagery with a good resolution really allows you to see what was going on, on the ground at that time.”



May 5, 2020

**Mtg Date:** May 12, 2020  
**To:** Oshtemo Charter Township Board  
**From:** Iris Lubbert, AICP, Planning Director  
**Subject:** Lighting Ordinance – Second Reading

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Objective:

Consideration of the Lighting Ordinance for second reading and adoption. First reading of the proposed ordinance amendment occurred on April 28, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

Background:

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



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

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

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

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

#### Summary of Proposed Amendments:

##### Section 54.20 Applicability

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

##### Section 54.30 Definitions

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

##### Section 54.50 Prohibited Lighting

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

clear.

#### Section 54.60 Outdoor Lighting Standards

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

Thank you.

#### Attachments:

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

## 54.10 INTENT

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

## 54.20 APPLICABILITY

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

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

## 54.30 DEFINITIONS

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

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

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

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

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

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

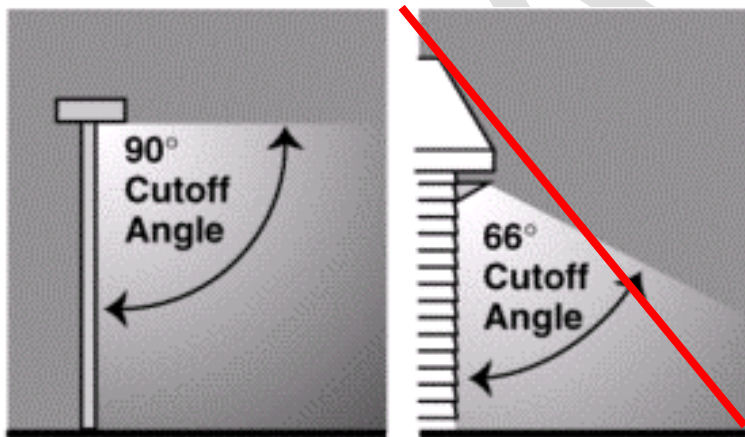
**Encased** – a lamp obscured by translucent sheathing.

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

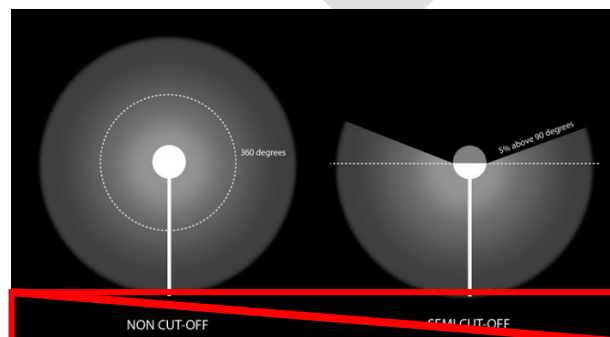
**Exterior lighting** - Temporary or permanent lighting that is installed, located, or used in such a manner to emit light outside. Fixtures that are installed indoors that are intended to draw attention to the exterior of the building from the outside are considered exterior lighting for the purposes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

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

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



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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 54.40 EXEMPTIONS

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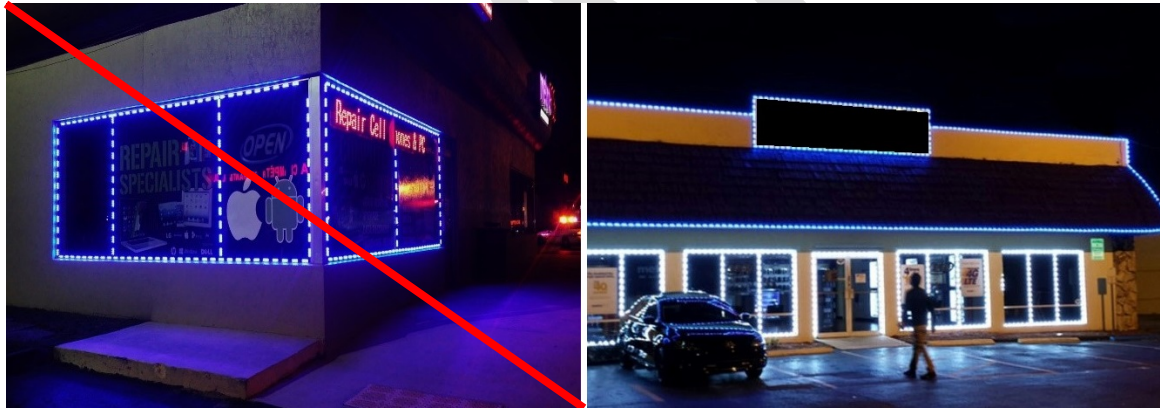
- A. Emergency lighting necessary to conduct rescue operations, support public safety, provide emergency medical treatment, to illuminate emergency means of egress, or address any other emergency situation.
- B. Lighting operated by a public utility or agency during the course of constructing, repairing,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



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

### 54.50 PROHIBITED LIGHTING

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



### 54.60 OUTDOOR LIGHTING STANDARDS

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

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

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

- c. Light generated from said fixtures shall be **downward directed and** appropriately shielded so that no light is emitted beyond the building facade.
  - d. **Shall strictly adhere to the reduced lighting clause outlined in 54.60(A)(7).**
- ~~1. Architectural features. The use of architectural features on the building, such as a canopy, which prevent the projection of light beyond the architectural feature may satisfy the intent of this Section and allow the use of noncut-off fixtures, subject to the approval of the reviewing body.~~
- B. Landscape Features and Green Belt Lighting
- 1. Landscape luminaires may include uplighting, which is specifically directed at the landscape or plant feature.
  - 2. Shall be equipped with shields to help direct light to the landscape or plant feature and to help eliminate light spillover and glare.
  - 3. Shall not exceed 300 lumens per luminaire.
  - 4. Shall not exceed a height of 18-inches above grade.
- C. Special Uses
- 1. Service station/fuel sales canopy structure
    - a. Luminaires shall be recessed so that the lens cover is flush with the lower surface of the canopy and shielded by a fixture or the edge of the canopy so that light is directed downward.
    - b. As an alternative, indirect lighting may be used where uplighting is reflected from the underside of the canopy. When this method is used, luminaires must be shielded so that direct light is focused exclusively on the underside of the canopy.
    - c. Luminaires shall not be mounted on the top or sides (fascia) of a canopy.
    - d. Internally illuminated signs in compliance with the Sign Ordinance may be placed on the fascia of the canopy.
    - e. The total light output directly below the canopy shall not exceed 30 foot-candles.
  - 2. Outdoor dining areas
    - a. Decorative unshielded lighting may be used in outdoor dining areas as long as the lighting does not exceed 1.5 foot-candles and is designed to control light spillover and reduce glare to adjacent properties.
    - b. Lighting in outdoor dining areas adjacent to residentially zoned or used land must be extinguished by 11:00 pm or when the business closes, whichever is first.
- D. **Signage**
- 1. **Lighting may be used to illuminate signs, subject to Section 55.150.**

## **54.70 INTERIOR LIGHTING**

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

## **54.80 EXISTING LIGHTING**

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

## **54.90 ADMINISTRATION**

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

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

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

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

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

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

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

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

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

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

#### Section 54.20 Applicability

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

#### Section 54.30 Definitions

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

#### Section 54.50 Prohibited Lighting

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

where it was not the intent.

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

#### Section 54.60 Outdoor Lighting Standards

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

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

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

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

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

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

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

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

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

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

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

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. \_\_\_\_\_

Adopted: \_\_\_\_\_, 2020

Effective: \_\_\_\_\_, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

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

THE CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN  
ORDAINS:

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

**54.20 Applicability**

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



SECTION II.

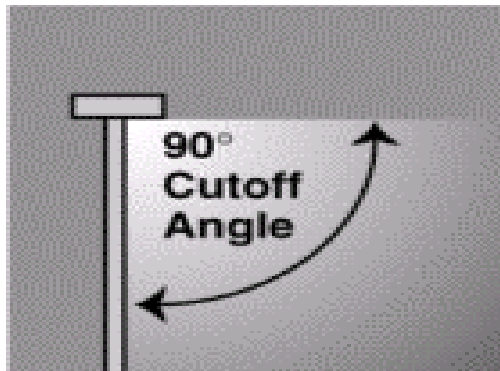
AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

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

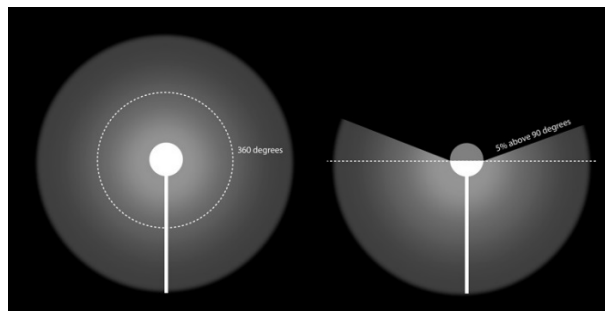
**54.30 Definitions**

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

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



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



SECTION III.

AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

SECTION 54.50 PROHIBITED LIGHTING. Article 54 Lighting, Section 54.50

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

**54.50 Prohibited Lighting**

- C. Fixtures that direct light upward, unless expressly permitted by this Article.
- F. Unshielded fixtures, including luminous tubes, LEDs, incandescent or fluorescent lighting, as an architectural detail on the exterior of any structure or the interior of any windows; including but not limited to rooflines, cornices, eaves, windows, and door openings.



SECTION IV.

AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

SECTION 54.60 OUTDOOR LIGHTING STANDARDS. Article 54 Lighting, Section

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

**54.60 Outdoor Lighting Standards**

- A. General Provisions
  - 3. Direction of Lighting. Lighting plans shall be designed to direct light into the development and away from adjacent property. Unless expressly permitted by this Article, all outdoor lighting fixtures shall be fully shielded and directed downward, parallel to the ground, to prevent off-site glare and illumination.
- C. Building-Mounted Lighting
  - 1. Pedestrian walkways and doorways

- a. Mounted height shall not exceed 14-feet in height.
  - b. Each luminaire shall not exceed 8,000 lumens and shall be spaced so the lighting for pedestrian walkways does not exceed 2.0 foot-candles and entryways do not exceed 6.0 foot-candles.
2. Luminaires used for the sole purpose of illuminating a building façade:
- a. May be up to 1.5 foot-candles averaged over each respective building façade face.
  - b. Shall be located on the building.
  - c. Light generated from said fixtures shall be downward directed and appropriately shielded so that no light is emitted beyond the building facade.
  - d. Shall strictly adhere to the reduced lighting clause outlined in 54.60(A)(7).
- D. Signage
- 1. Lighting may be used to illuminate signs, subject to Section 55.150.

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

DUSTY FARMER, CLERK  
OSHTEMO CHARTER TOWNSHIP

May 5, 2020



**Mtg Date:** May 12, 2020

**To:** Oshtemo Charter Township Board

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

**Subject:** Setback Provisions Ordinance – Second Reading

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Objective:

Consideration of the Setback Provisions Ordinance for second reading and adoption. First reading of the proposed ordinance amendment occurred on April 28, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

Background:

Recently, there was some concern about how the Township was regulating accessory buildings on residential properties. Specifically, where they were permitted to be located on a parcel, lot, or building site. After a careful review of the Accessory Buildings and Setback Ordinances, it was determined that some amendments were needed to ensure the two regulations worked in concert.

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

Summary of Proposed Amendments:

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

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

- A reference to Section 57.100 was added to assist readers with understanding there are additional requirements for accessory buildings.

Thank you.

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

## 50.60 SETBACK PROVISIONS

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

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

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

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

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

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

### 3. Accessory buildings

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

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

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

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

Ms. Johnston reported there was concern recently about how the Township was regulating accessory buildings on residential properties, specifically, where they were permitted to be located on a parcel, lot, or building site. After a careful review of the Accessory Buildings and Setback Ordinances, it was determined some amendments were needed to ensure the two regulations worked in concert.

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

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

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

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

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

Ms. Smith asked for clarification of 1. B.

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



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

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

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

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

## **OLD BUSINESS**

### **a. Draft Livestock and Honey Bees Ordinance review**

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

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

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

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

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

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. \_\_\_\_

Adopted: \_\_\_\_\_, 2020

Effective: \_\_\_\_\_, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

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

THE CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN  
ORDAINS:

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

ARTICLE 50 SCHEDULE OF REGULATIONS

**Section 50.60 SETBACK PROVISIONS**

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

1. Front yard setbacks for primary structures.
  - a. A setback of 30-feet shall be required from all street rights-of-way and outlots and/or planned future public street extensions unless a larger setback is otherwise required.
  - b. If a new primary structure is constructed within 300 feet of a building existing on the effective date of this Ordinance (December 24, 1966) which is closer than the 30-foot setback requirement, the setback may be decreased according to the schedule set forth in Section 50.60.A.
  - c. If a new primary structure is constructed within 100 feet of a building existing on the effective date of this Ordinance which is further than the 30-foot setback requirement, the minimum setback requirement shall be equal to the average of the closest existing buildings on either side of the new building.
  
2. Interior side and rear yard setbacks for primary structures.
  - a. "AG" Agricultural District, "RR" Rural Residential District, "R-1" Residence District, "R-2" Residence District, "R-3" Residence District, and "R-C" Residential, Conservation District:
    - i. The minimum setback distance between any primary structure, pool, or associated decks whether attached or detached and any interior side property shall be ten feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
    - ii. The minimum setback distance between any primary structure, pool, or associated decks whether attached or detached and any rear property shall be 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
  - b. "R- 5" Residence District, and buildings having two stories or less in "R-4" Residence District:
    - i. The minimum setback distance between any building and any rear or interior side property line shall be ten feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater.
  - c. The setbacks for buildings exceeding two stories in the "R-4" Residence District are set forth in Section 50.60.C.
  - d. The rear and interior side property line setbacks for nonresidential buildings in the above zoning districts shall satisfy the requirements of Section 50.60.C.

3. Accessory structures.
  - a. Accessory structures exceeding 200 square feet shall be set back from interior side and rear property lines a minimum of ten feet or the height of the accessory building at its highest point as measured from the grade of the property line, whichever is greater, unless a larger setback is otherwise required in the Township Zoning Ordinance.
  - b. Accessory structures not exceeding 200 square feet shall be set back from interior side and rear property lines a minimum of three feet, unless a larger setback is otherwise required in the Township Zoning Ordinance.
  - c. Reference Section 57.100 for additional accessory building requirements.
4. Essential services. In "AG" Agricultural District, "RR" Residence District, "R-1" Residence District, "R-2" Residence District, "R-3" Residence District, "R-4" Residence District, "R-5" Residence District, and "R-C" Residential, Conservation District there shall be a setback of not less than 25 feet from all street right-of-way lines and outlots and/or planned future public street extensions for all parcels, lots or building sites with buildings or regulator stations for essential services unless a larger setback is otherwise required in the Township Zoning Ordinance.
5. Separation between buildings. With respect to residential buildings of four dwelling units or less, there shall be a 20-foot separation between buildings located on the same parcel, lot, or building site (except buildings accessory thereto), unless otherwise required in the Township Zoning Ordinance. Separation shall be measured in the same manner as a building setback.
6. Lawful nonconforming residential buildings existing as of the date March 11, 1996. Any residential building constructed as of the date of March 11, 1996, which is set back less than the distance required by Section 50.60.A or Section 50.60.B (whichever is applicable) from the street right-of-way lines shall be considered a lawful nonconforming structure under Section 63.40 for purposes of the application and enforcement of the setback provisions of Sections 50.60.A and 50.60.B. Structures rendered lawfully nonconforming by this section shall not be utilized to decrease the setback required under the reduction schedule contained within Section 50.60.A.

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

DUSTY FARMER, CLERK  
OSHTEMO CHARTER TOWNSHIP



May 5, 2020

**Mtg Date:** May 12, 2020

**To:** Oshtemo Charter Township Board

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

**Subject:** Accessory Buildings Ordinance - Second Reading

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Objective:

Consideration of the Accessory Buildings Ordinance for second reading and adoption. First reading of the proposed ordinance occurred on April 28, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

Background:

Recently, there have been concerns about how the Township has been regulating accessory buildings on residential properties, specifically where they were permitted to be located on a parcel, lot, or building site. After review of the Accessory Buildings and Setback Ordinances, it was determined that amendments were needed to clarify where accessory buildings would be permitted and ensure that the two regulations worked in concert. The Planning Commission reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board at their regular December 12, 2019 meeting and, after discussion, directed staff to develop a new version of the Accessory Building code with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings on lots/building sites vs. parcels, and the overall permitted square footage of detached buildings based on lot size.

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

The amended ordinance has the support of the Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer. In addition, several of the proposed regulations were vetted for viability with the Fire Department and Southwest Michigan Building Authority.

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

Summary of Proposed Amendments:

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

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

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

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

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

communities' standards but have been increased to keep in mind the Townships rural character.

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

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

Thank you.

Attachments:

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



## ZONING ORDINANCE

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### ARTICLE 57

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#### 57 – MISCELLANEOUS PROTECTION REQUIREMENTS

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##### 57.100 ACCESSORY BUILDINGS

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

A. No accessory building shall:

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

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

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

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

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

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

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

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

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

## 57.100 Accessory Buildings Serving a Primary Residence

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

- c. There shall be established a minimum separation of ten feet, as measured wall to wall, between any accessory building and any other structure located on the property.
4. Size restrictions for all accessory buildings:
- a. The square footage of any accessory building located on a property within a subdivision or site condominium shall not exceed the footprint of the livable portion of the property's principle building.
  - b. For all lots, parcels, or building sites one acre or less in size, a maximum of 30% of the property may be covered by structures. This calculation shall include the first floor area of all structures on the lot, parcel, or building site including the principle building.
  - c. The maximum allowable square footage of accessory buildings on lots, parcels, or building sites larger than one acre, as measured by the combined gross floor area of all detached accessory structures which are located on the property, shall be limited as follows:

Property area	Maximum cumulative square footage of all detached accessory structures on a property
More than 1 acre but not more than 2 acres	2,000 square feet
More than 2 acres but not more than 3 acres	3,000 square feet
More than 3 acres but not more than 5 acres	4,000 square feet
More than 5 acres but not more than 8 acres	5,000 square feet
More than 8 acres but not more than 11 acres	6,000 square feet
More than 11 acres	7,000 square feet

5. Height:
- a. Accessory buildings shall not exceed the height of the principle building on properties located within subdivisions or site condominiums.
  - b. Accessory buildings shall not exceed a height of 30 feet on properties not located within a subdivision or site condominium.
  - c. For the purposes of this Section, height shall be measured from the finished floor to the top of the roof ridge.

6. Application requirements:
  - a. Applications for accessory buildings exceeding 200 square feet shall be accompanied by a drawing of the subject property containing the following information:
    - i. A north arrow
    - ii. All property lines
    - iii. Location and dimensions of all existing and proposed structures on the property
    - iv. Distances of all proposed structures from the property lines and any existing structures
    - v. Height of all proposed structures on the property
    - vi. Height of the principle building on the property
    - vii. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory building shall be used

DRAFT

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

Chairperson VanderWeele moved to the next agenda item.

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

Ms. Lubbert said recently, there have been concerns about how the Township has been regulating accessory buildings on residential properties, specifically where they were permitted to be located on a parcel, lot, or building site. After review of the Accessory Buildings and Setback Ordinances, it was determined that amendments were needed to clarify where accessory buildings would be permitted and ensure that the two regulations worked in concert. The Planning Commission reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board at their regular December 12, 2019 meeting and, after discussion, directed staff to develop a new version of the Accessory Building code with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings on lots/building sites vs. parcels, and the overall permitted square footage of detached buildings based on lot size.

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

She noted the amended ordinance has the support of the Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer. In addition, several of the proposed regulations were vetted for viability with the Fire Department and Southwest Michigan Building Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairperson VanderWeele requested the wording reflect that intent.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairperson VanderWeele called for a motion.

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

Chairperson VanderWeele moved to the next item on the agenda.

### **OTHER BUSINESS**

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

### **OLD BUSINESS**

There was no old business to consider.

### **PLANNING COMMISSIONER COMMENTS**

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

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. \_\_\_\_

Adopted: \_\_\_\_\_, 2020

Effective: \_\_\_\_\_, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

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

THE CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN  
ORDAINS:

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

## ARTICLE 57 MISCELLANEOUS PROTECTION REQUIREMENTS

### Section 57.100 ACCESSORY BUILDINGS SERVING A PRIMARY RESIDENCE

1. Applicability:
  - a. Accessory buildings shall be permitted in all Agricultural and Residential zoning districts; which include “AG” Agricultural District, “RR” Rural Residential District, “R-1” Residence District, “R-2” Residence District, “R-3” Residence District, “R-4” Residence District, “R-5” Residence District, and “R-C” Residential Conservation District.
  - b. All accessory buildings, unless otherwise expressly outlined by this Section, shall meet all the requirements specified herein.
  - c. Non-commercial accessory buildings used for the keeping of livestock or honeybees shall follow the requirements specified in Section 57.80.
  - d. All accessory buildings exceeding 200 square feet shall require plan review and approval by the Planning Director or their designee.
  - e. Any nonconforming accessory buildings shall be subject to the requirements specified in Section 63.40.
2. Restrictions. No accessory building shall:
  - a. Be constructed on any property prior to the construction of the principal building, unless building permits are obtained for both structures concurrently. All detached accessory buildings must be located on the same property where the principal permitted use is located. Exception of this clause can be granted by the Planning Director or their designee for vacant parcels serving an agricultural purpose that meet the requirements of Section 4.10.
  - b. Be constructed to encroach into a public utility easement.
  - c. Be used for human habitation.
  - d. Be used for purposes other than those customarily incidental to the permitted principal use of the property.
  - e. Be used for any business use or home occupation, unless approval is granted by the Planning Commission pursuant to Sections 48.60 or 49.110.

3. Setbacks for all accessory buildings:

a. Front setbacks

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

ii. Accessory buildings on properties not located within subdivisions or site condominiums shall meet the minimum front yard setback requirements for principal buildings in their corresponding zoning district, outlined in Section 50.60.

iii. For the purposes of this Section, corner properties shall be considered to have two front property lines.

b. Interior Side and Rear setbacks are outlined in Section 50.60.B.3.

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

4. Size restrictions for all accessory buildings:

a. The square footage of any accessory building located on a property within a subdivision or site condominium shall not exceed the footprint of the livable portion of the property's principal building.

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

c. The maximum allowable square footage of accessory buildings on lots, parcels, or building sites larger than one acre, as measured by the combined gross floor area of all detached accessory structures which are located on the property, shall be limited as follows:

Property area	Maximum cumulative square footage of all detached accessory structures on a property
More than 1 acre but not more than 2 acres	2,000 square feet
More than 2 acres but not more than 3 acres	3,000 square feet
More than 3 acres but not more than 5 acres	4,000 square feet
More than 5 acres but not more than 8 acres	5,000 square feet
More than 8 acres but not more than 11 acres	6,000 square feet
More than 11 acres	7,000 square feet

5. Height:

- a. Accessory buildings shall not exceed the height of the principal building on properties located within subdivisions or site condominiums.
- b. Accessory buildings shall not exceed a height of 30 feet on properties not located within a subdivision or site condominium.
- c. For the purposes of this Section, height shall be measured from the finished floor to the top of the roof ridge.

6. Application requirements:

- a. Applications for accessory buildings exceeding 200 square feet shall be accompanied by a drawing of the subject property containing the following information:
  - i. A north arrow
  - ii. All property lines
  - iii. Location and dimensions of all existing and proposed structures on the property
  - iv. Distances of all proposed structures from the property lines and any existing structures

- v. Height of all proposed structures on the property
- vi. Height of the principal building on the property
- vii. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory building shall be used

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

DUSTY FARMER, CLERK  
OSHTEMO CHARTER TOWNSHIP

May 5, 2020



**Mtg Date:** May 12, 2020

**To:** Oshtemo Charter Township Board

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

**Subject:** Proposed Zoning Administrator Position Description

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Objective:

Consideration of an updated Zoning Administrator Position Description for adoption.

Background:

It is with a heavy heart that I share that Ben Clark, Zoning Administrator for the Township, has accepted a full time GIS position with the City of Kalamazoo. The opportunity matches his career goal to work full time in GIS. Ben's last day is May 22, 2020. Although we are very happy for Ben for this career opportunity, he will be greatly missed.

With the effort to find his replacement, staff reviewed the existing Zoning Administrator Position Description and its past iterations. It was deemed necessary to update the description to more accurately encompass the responsibilities of the Zoning Administrator. In addition to adding responsibilities, for example "Responsible for use of GIS to assist with analysis and presentation of information for Township projects", staff took the opportunity to also reorder and reword some of the positions responsibilities to help with the flow of the document.

Thank you.

Attachments: Proposed Zoning Administrator Position Description (redlined)  
Proposed Zoning Administrator Position Description (clean)



**CHARTER TOWNSHIP OF OSHTEMO  
POSITION DESCRIPTION**

**Position Title:**           **ZONING ADMINISTRATOR**

**General Summary:**

Under the general direction of the Township Supervisor and the direct supervision of the Planning Director, perform a variety of planning duties:

**Physical Requirements:**

Physical requirements described herein are representative of those requirements which must be met by an employee to successfully perform the essential job functions of this job. Reasonable accommodations may be made upon request to enable an individual with a disability to perform these essential job functions.

The employee must be able to visit properties within the Township. The ability to drive is required in order to view the properties being evaluated for accessory building permit, sign permit, and site plan review and compliance purposes. During site visits to evaluate properties, the employee must be able to traverse the property, use a camera, take photographs, and use a tape measure or other equipment to inspect site conditions and improvements.

While at the office, the employee must be able to type reports and permits and prepare maps. The employee must also be able to visually review schematic drawings, permit applications, site plans and related documents. In addition, the employee must be able to review planning files and property tax record cards, which require the ability to reach files more than four (4) feet off the floor, retrieve and copy the same.

Several days of the month, the employee must be able to work up to 12 hours per day and attend necessary public meetings. During the Planning Commission, Zoning Board of Appeals and Township Board meetings, the employee must also be able to present reports publicly using a computer and a projector system.

The ability to operate a computer, copy machine, and answer the telephone is absolutely necessary.

The ability to communicate the planning process, reports and analyses, recommendations, not only to the public, but also to the Planning Commission, Zoning Board of Appeals and Township Board orally and in writing, in English, is required.

**Typical Responsibilities:**

1) Respond to inquiries from and provide assistance to public agencies, developers, and citizens regarding planning and zoning related issues.

Assist applicants with relevant building permits and review applications.

2)

~~1) P~~

~~2) Perform field inspections of development projects for conformance with approved plans and compliance with Township regulations.~~

~~3) —~~

~~3) —~~

~~Assist sign permit applicants and review sign permit applications.~~

~~Coordinate review of accessory building permit applications.~~

~~Coordinate review of communication towers and antenna co-locations.~~

~~4) Review development proposals, as assigned, for compliance with local policies and regulations and accepted planning principles including meeting with developers and property owners. Take applicants through the review/approval process. Coordinate project approvals until completion.~~

~~5) Prepare written and/or oral reports and findings on planning and zoning activities.~~

~~4) Assist Planning Director with review of development proposals and preparation of written and/or oral reports and findings on planning and zoning activities.~~

~~5)6) As necessary, Assist Ordinance Enforcement Officer with Zoning Ordinance enforcement.~~

~~7) Assist Planning Director as Department liaison to Township boards and committees. This includes attending and presenting projects to the Planning Commission, Zoning Board of Appeals, joint board meetings, and Township Board meetings on an as needed basis.~~

~~8) Participate in planning projects and studies involving zoning, land use, resource management, and socioeconomic analysis.~~

~~6) Attend Planning Commission, Zoning Board of Appeals, and joint board meetings on a regular basis and Township Board meetings on an as needed basis.~~

~~7)9) Serve as liaison to Township Committees, as assigned.~~

~~10) Participate in professional associations, seminars, and conferences as time and budget permit. Participate in the maintenance of planning and zoning records and coordinate correction of Township maps and GIS.~~

~~11) Responsible for use of GIS to assist with analysis and presentation of information for Township projects.~~

~~8)12) Participate in professional associations, seminars, and conferences.~~

The above statements are intended to describe the general nature and level of work to be performed. They are not to be construed as an exhaustive list of all job duties.

### **Employment Qualifications:**

DRIVERS LICENSE REQUIREMENT: Must maintain a current Michigan motor vehicle operator's license without restrictions (other than corrective lenses).

EDUCATION: Bachelor's Degree in Planning or related field, with coursework in GIS.~~Coursework toward or Degree in Planning or related field.~~

EXPERIENCE: At least one (1) year of zoning administration, or related experience.

These qualifications represent guidelines; alternative qualifications may be substituted if sufficient to perform duties required by position.

~~Effective-Drafted~~ Date: ~~0411/2813/202012~~

## **CHARTER TOWNSHIP OF OSHTEMO POSITION DESCRIPTION**

**Position Title:**       **ZONING ADMINISTRATOR**

### **General Summary:**

Under the general direction of the Township Supervisor and the direct supervision of the Planning Director, perform a variety of planning duties:

### **Physical Requirements:**

Physical requirements described herein are representative of those requirements which must be met by an employee to successfully perform the essential job functions of this job. Reasonable accommodations may be made upon request to enable an individual with a disability to perform these essential job functions.

The employee must be able to visit properties within the Township. The ability to drive is required in order to view the properties being evaluated for accessory building permit, sign permit, and site plan review and compliance purposes. During site visits to evaluate properties, the employee must be able to traverse the property, use a camera, take photographs, and use a tape measure or other equipment to inspect site conditions and improvements.

While at the office, the employee must be able to type reports and permits and prepare maps. The employee must also be able to visually review schematic drawings, permit applications, site plans and related documents. In addition, the employee must be able to review planning files and property tax record cards, which require the ability to reach files more than four (4) feet off the floor, retrieve and copy the same.

Several days of the month, the employee must be able to work up to 12 hours per day and attend necessary public meetings. During the Planning Commission, Zoning Board of Appeals and Township Board meetings, the employee must also be able to present reports publicly using a computer and a projector system.

The ability to operate a computer, copy machine, and answer the telephone is absolutely necessary.

The ability to communicate the planning process, reports and analyses, recommendations, not only to the public, but also to the Planning Commission, Zoning Board of Appeals and Township Board orally and in writing, in English, is required.

### **Typical Responsibilities:**

- 1) Respond to inquiries from and provide assistance to public agencies, developers, and citizens regarding planning and zoning related issues.
- 2) Assist applicants with relevant building permits and review applications.

- 3) Perform field inspections of development projects for conformance with approved plans and compliance with Township regulations.
- 4) Review development proposals, as assigned, for compliance with local policies and regulations and accepted planning principles including meeting with developers and property owners. Take applicants through the review/approval process. Coordinate project approvals until completion.
- 5) Prepare written and/or oral reports and findings on planning and zoning activities.
- 6) As necessary, assist Ordinance Enforcement Officer with Zoning Ordinance enforcement.
- 7) Assist Planning Director as Department liaison to Township boards and committees. This includes attending and presenting projects to the Planning Commission, Zoning Board of Appeals, joint board meetings, and Township Board meetings on an as needed basis.
- 8) Participate in planning projects and studies involving zoning, land use, resource management, and socioeconomic analysis.
- 9) Serve as liaison to Township Committees, as assigned.
- 10) Participate in the maintenance of planning and zoning records and coordinate correction of Township maps and GIS.
- 11) Responsible for use of GIS to assist with analysis and presentation of information for Township projects.
- 12) Participate in professional associations, seminars, and conferences.

The above statements are intended to describe the general nature and level of work to be performed. They are not to be construed as an exhaustive list of all job duties.

**Employment Qualifications:**

**DRIVERS LICENSE REQUIREMENT:** Must maintain a current Michigan motor vehicle operator's license without restrictions (other than corrective lenses).

**EDUCATION:** Bachelor's Degree in Planning or related field, with coursework in GIS.

**EXPERIENCE:** At least one (1) year of zoning administration, or related experience.

These qualifications represent guidelines; alternative qualifications may be substituted if sufficient to perform duties required by position.

Effective Date: \_\_\_\_\_, 2020

May 5, 2020



**Mtg Date:** May 12, 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 – First 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 first reading.

**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 Tunkus Glen Farm

Kalamazoo, MI. 49009

E-mail stallbom@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)**

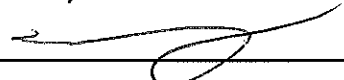
**Address(es)**

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

**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 : WAY Bridge LLC

Company \_\_\_\_\_

Address M.S. WAY  
7049 Tenky Glen Trail  
Kalamazoo, MS. 49009

E-mail stallbaker@icloud.com

Telephone 599-4503 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): \_\_\_\_\_

Rezoned 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@picout.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
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- 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:**

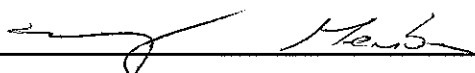
**Name(s)**

**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**

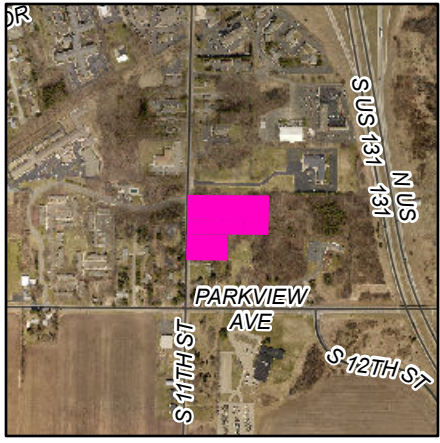
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**Applicant's Signature**

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

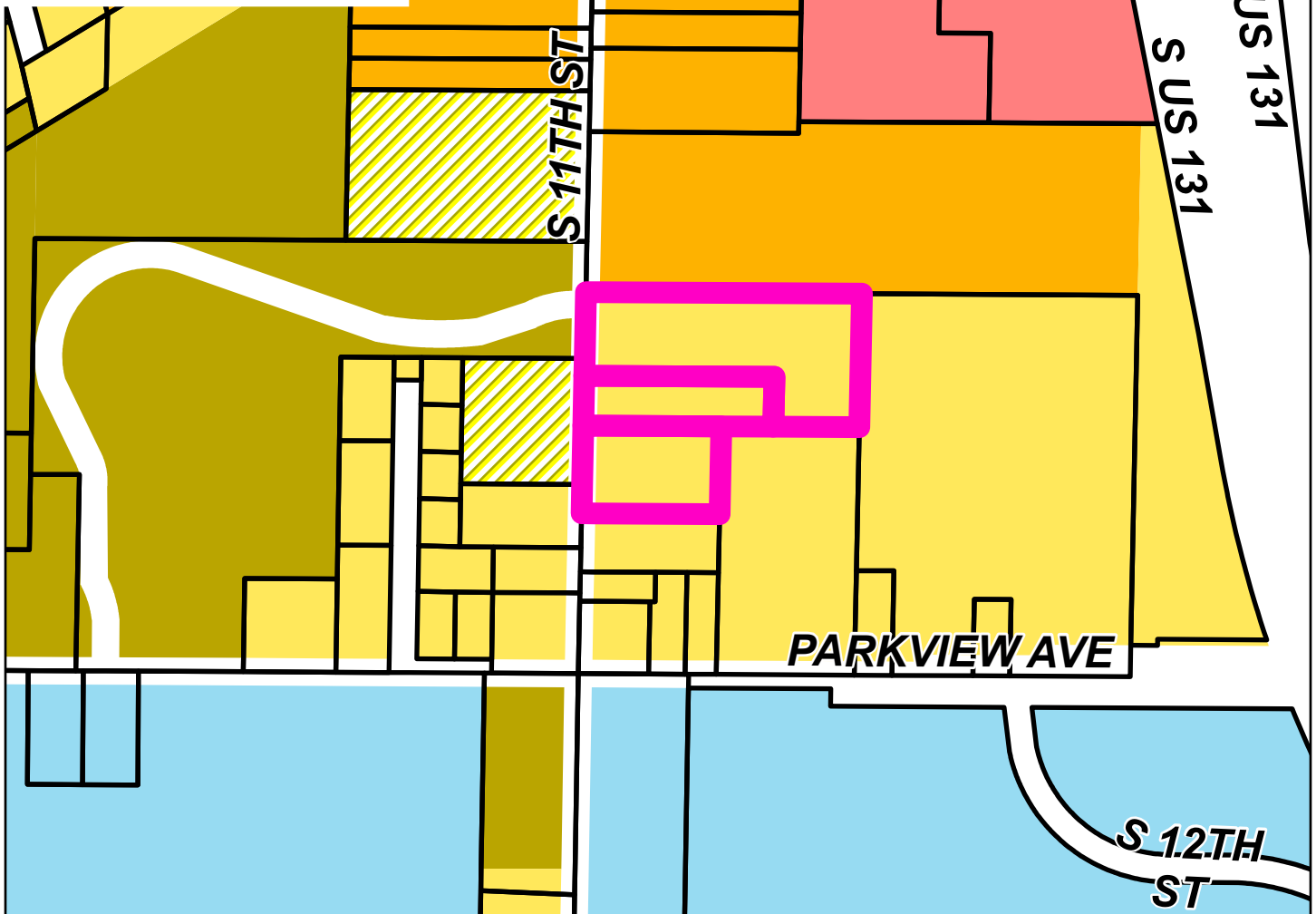
- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original









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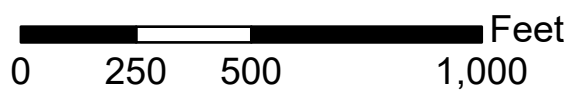
**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

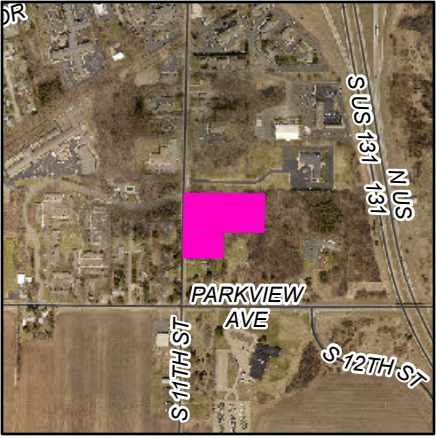


**CURRENT ZONING**



-  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

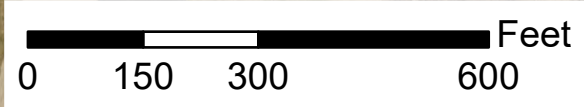
Single-Family  
Residential

PARKVIEW AVE

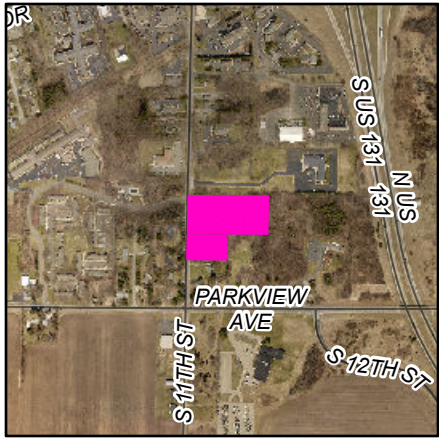
S 12TH ST



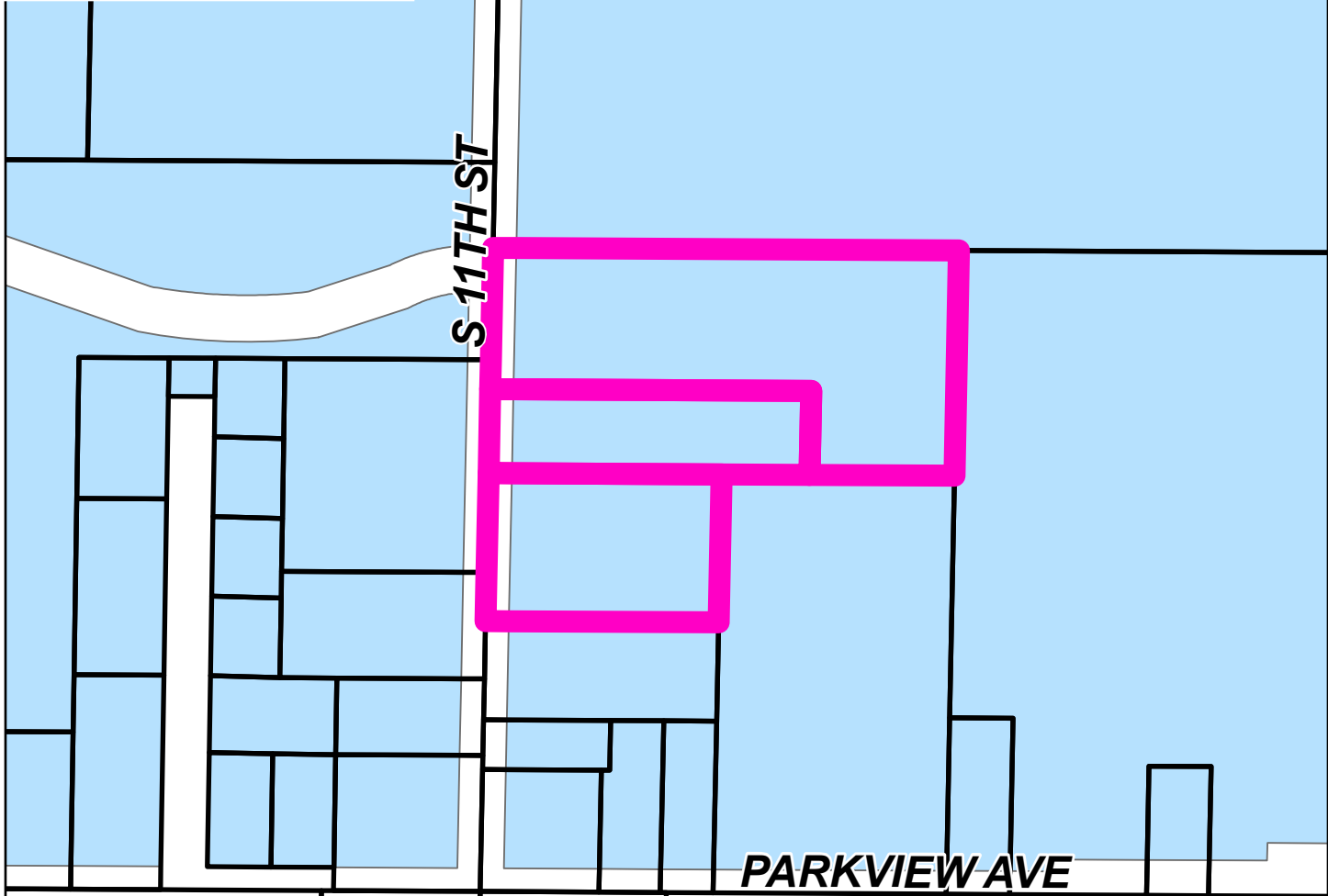
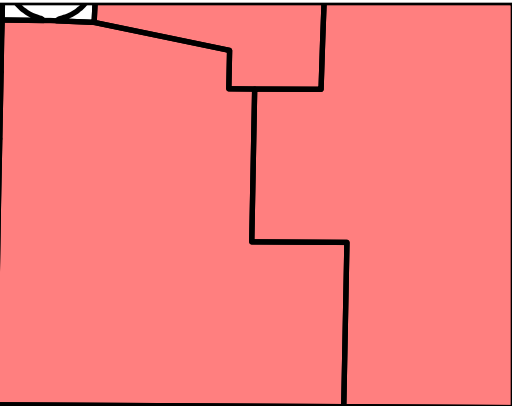
 Subject Property  
 Other Property Line












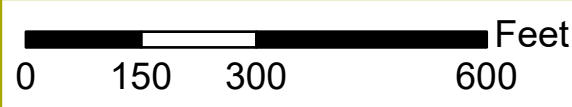
FUTURE  
LAND USE



PARKVIEW AVE

S 11TH ST

-  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 6, 2020



**Mtg Date:** May 12, 2020

**To:** Oshtemo Charter Township Board

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

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

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Objective:

Consideration of the Keeping of Livestock and Honey Bees Ordinance for first reading.

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 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 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.

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

# Memo



**To:** Oshtemo Charter Township Board  
**From:** Julie Johnston, AICP  
Planning Consultant  
**Date:** May 5, 2020  
**Mtg Date:** May 12, 2020  
**Subject:** Landscape Ordinance - First Reading

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## **OBJECTIVE**

Consideration of the Landscaping Ordinance for first reading.

## **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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#### Contents:

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#### 53.30 GENERAL PROVISIONS

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#### 53.60 SUBDIVISIONS / SITE CONDOMINIUMS

#### 53.70 PARKING AREA LANDSCAPING

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#### 53.120 TREE PROTECTION DURING CONSTRUCTION

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#### 53.140 EXCEPTIONS

#### 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

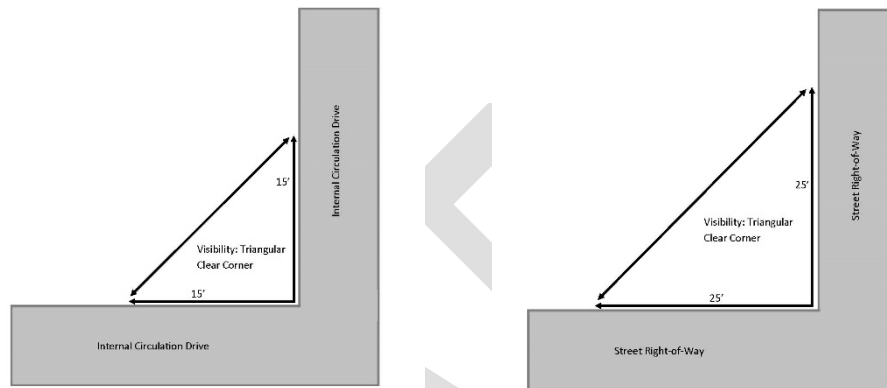
These requirements shall apply to all uses subject to site plan review as defined in Article 64 of this ordinance. No site plan shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

### 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 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:

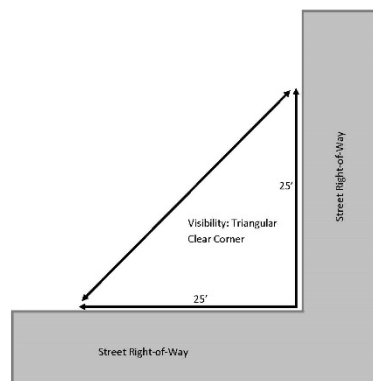
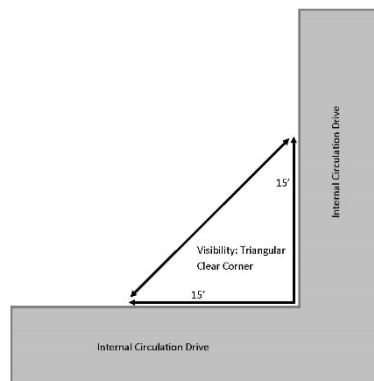
- Increase compatibility between uses and provide buffering between dissimilar land uses.
- Improve the overall aesthetics and appearance of public rights-of way.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare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

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

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

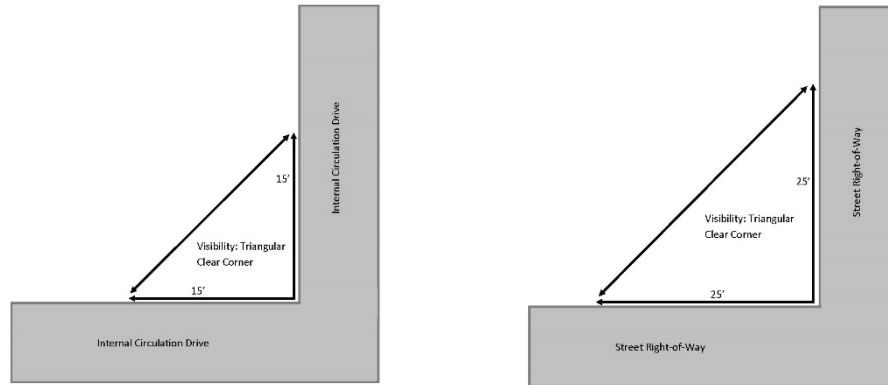
These requirements shall apply to all uses subject to site plan review as defined in Article 64 of this Ordinance. No site plan shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

### 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)
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- 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
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Ginkgo biloba (Female)	Female Ginkgo
Populus spp.	Poplars, Cottonwood, Aspen
Liquidambar styraciflua	Sweet Gum
Salix spp.	Willows
Ulmus spp.	Elms
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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).
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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.

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

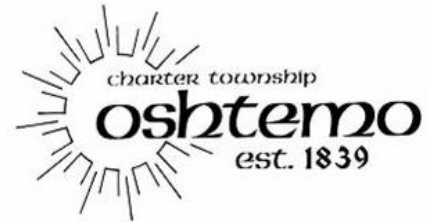
- A. Street rights-of-way greenbelts and screening between land uses shall be required for any existing site where the renovation, expansion or alteration increases the structure by more than 25 percent of the existing floor area or is greater than 2,000 square feet.
- B. Landscape requirements for parking 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.





# Memorandum

**Date:** 9<sup>th</sup> April 2020  
**From:** Libby Heiny-Cogswell, Supervisor, Marc Elliott, Public Works Director  
**To:** Oshtemo Township Board  
**Subject:** Sanitary Sewer USDA Phase 1

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## **Objective:**

Township Board consideration of the following:

1. Conditional award resolution to award the USDA Phase 1 construction contract(s);
2. Bond authorizing resolution; *and*
3. USDA Rural Development Loan Resolutions.

## **Background:**

The Oshtemo Township Board is asked to consider whether to move forward with the USDA Phase 1 sanitary sewer expansion project. Mark Nettleton, Bond Counsel, Paul Bristol, USDA Rural Development, and Bobby Bendzinski, municipal finance advisor will be available to answer questions this evening. They, along with Civil Engineering consultant Matt Johnson, Fleis & Vandenbrink, previously provided extensive information. The attached final documents were reviewed by Bond Counsel and USDA.

The Capital Improvements Committee met April 21st, 2020. After lengthy discussion, the Committee made a unanimous recommendation to the Township Board to move forward with the Phase 1 project, incorporating the value engineering recommendations from PE Matt Johnson. Those recommendations are incorporated into the proposed Series B loan resolution.

## **Information Provided:**

Updated Comparative Township Connection Fees to include Kalamazoo Township.  
Conditional Award Resolution to Award A&B construction contracts.  
Bond Authorizing Resolution.  
USDA Rural Development Loan Resolution A.  
USDA Rural Development Loan Resolution B.

## **Core Values Recognized:**

**Sustainability** (Meet the needs of the present without compromising future generations.)

**Fiscal Stewardship** (Ensure that taxpayer investments are spent wisely, effectively and efficiently.)



# Memorandum

**Date:** 12 May 2020  
**To:** Oshtemo Charter Township Board  
**From:** Colten Hutson, Public Works Technical Specialist  
**Subject:** Sewer Questionnaire for Neighboring Communities

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## **Objective**

Board to review sewer connection requirements for neighboring communities.

## **Discussion**

The Public Works Department conducted outreach to neighboring communities through a short questionnaire regarding public sanitary sewer. The purpose of creating this questionnaire is to better understand how Oshtemo Charter Township's sewer connection fees and requirements compare with similar Townships in the Greater Kalamazoo Area. Information gathered came from staff of Texas Charter Township, Kalamazoo Charter Township, Comstock Charter Township, and Cooper Township. The collected results are as follows.

Respectfully,

Colten Hutson

## Questionnaire of Sewer Connection Fees

Comstock Township's typical resident with **120 ft** of frontage will have a cost of **\$12,500.00**.

Comstock Township's typical resident with **150 ft** of frontage will have a cost of **\$14,000.00**.

Comstock Township's typical resident with **200 ft** of frontage will have a cost of **\$16,500.00**.


Township Name:	Comstock Township
Date Completing Questionnaire	3/19/2020
Contact Person for follow-up questions.	Bret Padgett, Treasurer
Do you have a Mandatory Connection Requirement?	No
Example parameters: ↓	See Below
Price per lot/parcel	\$4,500.00
Price per foot of frontage	\$50.00
Price for Single-Family Equivalent. (Also known as Benefit Use (BU))	\$2,000.00
Do you provide an Installment Payment Option (e.g. a utility mortgage)?	Yes
Number of Years the Loan can be Extended	20 years
Current Interest Rate	8%
Time Granted to Complete Connection?	N/A
Do you have any provisions that allow property owners to defer connection and payment due to the age of their septic tank?	No
Do homeowners still have to pay a licensed contractor to do the work on the private side and get hooked up the public utility, in addition to the connection fees?	Yes

## Questionnaire of Sewer Connection Fees

Cooper Township's typical resident with **120 ft** of frontage will have a cost of **\$13,810.00**.

Cooper Township's typical resident with **150 ft** of frontage will have a cost of **\$15,160.00**.

Cooper Township's typical resident with **200 ft** of frontage will have a cost of **\$17,410.00**.

Township Name:	Cooper Township
Date Completing Questionnaire	3/19/2020
Contact Person for follow-up questions.	DeAnna Janssen
Do you have a Mandatory Connection Requirement?	Yes
Example parameters: 	See Below
Price per lot/parcel	N/A
Price per foot of frontage	\$45.00
Price for Single-Family Equivalent. (Also known as Benefit Use (BU))	\$8,410.00
Do you provide an Installment Payment Option (e.g. a utility mortgage)?	Yes
Number of Years the Loan can be Extended	50% of the total cost up front and then the remaining 50% will be assessed annually over the next 5 years onto the winter tax bill.
Current Interest Rate	5%
Do you provide any other payment options other than paying in full?	Property owners may choose to do nothing for up to 10 year. As of October 01, 2020 – a 3% increase will be added to both the front foot fee and the benefit fee. Thereafter, on October 01 of each year, an additional 3% will be added to both the front foot fee and the benefit fee.
Time Granted to Complete Payment	10 years
Time Granted to Complete Connection?	Until the current septic system fails.
Do you have any provisions that allow property owners to defer connection and payment due to the age of their septic tank?	No
Do homeowners still have to pay a licensed contractor to do the work on the private side and get hooked up the public utility, in addition to the connection fees?	Yes

## Questionnaire of Sewer Connection Fees

Texas Township's typical resident with **120 ft** of frontage will have a cost of **\$10,400.00**.

Texas Township's typical resident with **150 ft** of frontage will have a cost of **\$10,400.00**.

Texas Township's typical resident with **200 ft** of frontage will have a cost of **\$10,400.00**.


Township Name:	Texas Township
Date Completing Questionnaire	3/19/2020
Contact Person for follow-up questions.	Trish Roberts, Treasurer
Do you have a Mandatory Connection Requirement?	<p>Yes, Charter Township of Texas adopted a Mandatory Sewer Connection Ordinance (#328) on November 13, 2017. The ordinance took effect for improved parcels on April 1, 2018. Existing structures must connect if the front of the structure is within 200' of the lead. Existing structures must connect no later than April 1, 2023.</p> <p>It took effect for new construction on December 1, 2017. If sewer is available, new construction must connect no matter the distance from the lead.</p>
Example parameters: ↓	See Below
Price per lot/parcel	\$8,600.00
Price per foot of frontage	N/A
Price for Single-Family Equivalent. (Also known as Benefit Use (BU))	\$1,800.00
Do you provide an Installment Payment Option (e.g. a utility mortgage)?	Yes
Number of Years the Loan can be Extended	10 years and assessed onto the resident's winter tax bill, annually.
Current Interest Rate	5.75%
Time Granted to Complete Connection?	5 years
Do you have any provisions that allow property owners to defer connection and payment due to the age of their septic tank?	We did not allow exception for age of septic.
Do homeowners still have to pay a licensed contractor to do the work on the private side and get hooked up the public utility, in addition to the connection fees?	Yes. The owner is responsible for the cost of the installation. We do not "finance" it through the installment plan agreement. We refer them to the list of licensed contractors registered with the City's Environmental Health Department.

## Questionnaire of Sewer Connection Fees

Kalamazoo Township's typical resident with **120 ft** of frontage will have a cost of **\$13,500.00**.

Kalamazoo Township's typical resident with **150 ft** of frontage will have a cost of **\$15,000.00**.

Kalamazoo Township's typical resident with **200 ft** of frontage will have a cost of **\$17,500.00**.


Township Name:	Kalamazoo Township
Date Completing Questionnaire	4/22/2020
Contact Person for follow-up questions.	Stephania Brown, Treasury
Do you have a Mandatory Connection Requirement?	Yes and no. If it is a new build then they have to hookup immediately. If they are currently on septic, they are only required to connect if/when the septic system fails.
Example parameters: 	See Below
Price per lot/parcel	\$7,500.00 (tap-in fee)
Price per foot of frontage	\$50.00
Price for Single-Family Equivalent. (Also known as Benefit Use (BU))	\$0.00
Do you provide an Installment Payment Option (e.g. a utility mortgage)?	Yes
Number of Years the Loan can be Extended	Most residents will pay all fees in advance. If someone wants to do installments we give them 5 years at 8%. They are billed annually and if it isn't paid by the due date, the original payment plus interest and penalty will be applied to their winter tax bill.
Current Interest Rate	Properties w/ Existing Sewer = 8% (most residents that had payment plans  Properties w/ Forthcoming Sewer 0%. They pay the \$7,500 tap-in fee and the front footage charge in one payment.
Time Granted to Complete Connection?	Immediately for new builds or 5 years if the septic tank system fails.
Do you have any provisions that allow property owners to defer connection and payment due to the age of their septic tank?	Yes, if the septic tank system fails, they have 5 years to get connected to sewer. We have not had anyone (as far as I know) not connect immediately after a system failure.
Do homeowners still have to pay a licensed contractor to do the work on the private side and get hooked up the public utility, in addition to the connection fees?	Yes. The owner is responsible for the cost of the installation. We do not finance it through the installment plan agreement.

## Questionnaire of Sewer Connection Fees

Oshtemo Township's typical resident with **120 ft** of frontage will have a cost of **\$12,000.00**.

Oshtemo Township's typical resident with **150 ft** of frontage will have a cost of **\$12,750.00**.

Oshtemo Township's typical resident with **200 ft** of frontage will have a cost of **\$14,000.00**.

Township Name:	Oshtemo Township
Date Completing Questionnaire	3/19/2020
Contact Person for follow-up questions.	Colten Hutson, Public Works
Do you have a Mandatory Connection Requirement?	Yes
Example parameters: 	See Below
Price per lot/parcel	\$7,000.00
Price per foot of frontage	\$25.00
Price for Single-Family Equivalent. (Also known as Benefit Use (BU))	\$2,000.00
Do you provide an Installment Payment Option (e.g. a utility mortgage)?	Yes
Number of Years the Loan can be Extended	Properties in which have existing sewer can finance up to 20 years and have it applied to the resident's winter tax bill, annually.  Properties in which will be receiving forthcoming sewer can finance up to 40 years and have it applied to the resident's winter tax bill, annually.
Current Interest Rate	Properties w/ Existing Sewer = 3.83%  Properties w/ Forthcoming Sewer <=2.375%
Time Granted to Complete Connection?	2 years
Do you have any provisions that allow property owners to defer connection and payment due to the age of their septic tank?	Yes, property owners can defer payment and connection until their current sewage treatment system reaches its 15 <sup>th</sup> year in age.
Do homeowners still have to pay a licensed contractor to do the work on the private side and get hooked up the public utility, in addition to the connection fees?	Yes. The owner is responsible for the cost of the installation. We do not finance it through the installment plan agreement. We refer them to the township's list of known licensed contractors.

**CHARTER TOWNSHIP OF OSHTEMO  
COUNTY OF KALAMAZOO, MICHIGAN**

Minutes of a regular meeting of the Township Board of the Charter Township of Oshtemo, held at the Township Hall, 7275 W. Main St., Kalamazoo, Michigan, on the 12<sup>th</sup> day of May, 2020, at 7:15 p.m.

PRESENT: Members: \_\_\_\_\_

ABSENT: Members: \_\_\_\_\_

The following preamble and resolution was offered by Member \_\_\_\_\_ and seconded by Member \_\_\_\_\_:

**RESOLUTION TO MAKE CONDITIONAL AWARD  
OF CONSTRUCTION CONTRACTS FOR  
SANITARY SEWER SYSTEM PROJECT**

WHEREAS, following the publication of advertisement for bids on January 20, 2020, sealed bids were received by the Charter Township of Oshtemo (the "Township") on February 21, 2020, for Phase I Contract A, and on February 28, 2020 for Phase I Contract B for the construction contracts (individually and collectively a "Construction Contract") for Phase I of the Township's sewer improvement and extension project (the "Project"); and

WHEREAS, Fleis & VandenBrink (the "Project Engineer") has submitted its written recommendation that a Construction Contract be awarded to Peters Construction of Kalamazoo, the low bidder on Contract A for Phase I of the Project, in the amount of \$4,395,422.29 and to Dunigan Bros. Inc. of Jackson, the low bidder on Contract B for Phase I of the Project in the amount of \$3,628,585.70, after a reduction in the Granular Material Class III Subbase, for a savings of \$263,925.00; and

WHEREAS, a copy of the bid tabulation and the Project Engineer's recommendation for award for the Construction Contracts is attached to this Resolution as **Exhibit A**; and



WHEREAS, the cost of the Project is to be defrayed by the proceeds of the sale of two series of the Township's capital improvement bonds, with the first series of bonds to be issued in the estimated principal amount of \$8,346,000 (the "Series 2020A Bonds") and the second series of bonds to be issued in the estimated principal amount of \$864,000 (the "Series 2020B Bonds") (collectively, the Series 2020A and 2020B Bonds are referred to as the "Bonds") to evidence long-term loans from USDA Rural Development; and

WHEREAS, the Bonds are expected to be sold and delivered to USDA Rural Development to evidence the USDA Rural Development loans on or before the expiration of the 90-day hold period on the bids for the Construction Contracts.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. Based upon the written recommendation of the Project Engineer, the Construction Contract for Contract A is hereby awarded to Peters Construction of Kalamazoo, in the amount of \$4,395,422.29, and the Construction Contract for Contract B is hereby awarded to Dunigan Bros. Inc. of Jackson, in the amount of \$3,628,585.70, after a reduction in the Granular Material Class III Subbase, for a savings of \$263,925.00, conditioned upon receipt of a letter from USDA Rural Development verifying that it has concurred with the Project Engineer's recommendation for award of the Construction Contracts and the successful sale and delivery of the Bonds to Rural Development to evidence the USDA Rural Development loan.

2. The Township Supervisor and Clerk are authorized and directed to execute appropriate Notices of Award and the necessary agreements and related documents applicable to the Construction Contracts, subject to the conditions set forth in Paragraph 1 above.

3. All resolutions or portions thereof inconsistent with the provisions of this resolution are hereby rescinded.

YEAS: Members: \_\_\_\_\_  
\_\_\_\_\_

NAYS: Members: \_\_\_\_\_

ABSENT: Members: \_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Dusty Farmer, Clerk  
Charter Township of Oshtemo

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF KALAMAZOO     )

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Oshtemo, Kalamazoo County, Michigan (the "Township"), do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board at a regular meeting on the 12th day of May, 2020, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereto affixed my official signature on this 12<sup>th</sup> day of May, 2020.

\_\_\_\_\_  
Dusty Farmer, Clerk  
Charter Township of Oshtemo

# EXHIBIT A

## Bid Tabulation and Engineer's Recommendation



### Oshtemo Township Kalamazoo County, Michigan

Neighborhood Sanitary Sewer Extension, Phase 1, Contract A  
Project #833250

#### BID SUMMARY

<b>Bidder</b> (listed below from low to high)	<b>Total</b>
1. Peters Construction	\$4,395,422.59
2. Balkema Excavating, Inc.	\$4,442,796.25
3. Hoffman Bros.	\$5,160,508.32
4. Milbocker & Sons, Inc.	\$5,285,136.92
5. Dunigan Bros., Inc.	\$5,440,571.20
6. Kamminga & Roodvoets, Inc.	As Read \$5,687,549.61 Actual \$5,678,549.61



## RECOMMENDATION OF AWARD

March 18, 2020

Libby Heiny-Cogswell, Supervisor  
Oshtemo Township  
7275 W. Main Street  
Kalamazoo, MI 49009

**RE: Neighborhood Sewer Extension Phase 1-Contract A**

Dear Libby,

We have reviewed the bids received on February 21, 2020 for the above referenced project. Six bids were received and the bid summary is attached.

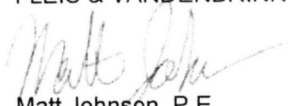
The low bidder is Peters Construction of Kalamazoo, Michigan with a bid amount of \$4,395,422.59.

I have reviewed the bids and all required bidding documents were submitted. Peters is a qualified firm and have the capacity to complete the project. Based on the above information we recommend award of the Neighborhood Sewer Extension Phase 1- Contract A to Peters Construction of Kalamazoo, Michigan with a bid amount of \$4,395,422.59.

Please feel free to call with any questions.

Sincerely,

FLEIS & VANDENBRINK ENGINEERING, INC.

  
Matt Johnson, P.E.  
Project Manager

Enclosure

4798 Campus Drive  
Kalamazoo, MI 49008  
P: 269.385.0011  
F: 269.382.6972  
www.fveng.com

01210 Rev. 1/15/2018 Contract A



**Oshtemo Township**  
Kalamazoo County, Michigan

**Neighborhood Sanitary Sewer Extension, Phase 1, Contract B**  
Project #833250

**BID SUMMARY**

<b>Bidder</b> (listed below from low to high)	<b>Total</b>
1. Dunigan Bros., Inc.	\$3,892,510.70
2. Milbocker & Sons, Inc.	\$4,200,318.86
3. Balkema Excavating, Inc.	\$4,249,803.00
4. Hoffman Bros.	\$4,374,685.71
5. Kamminga & Roodvoets, Inc.	\$4,649,710.00

833250 Contract B Bid Summary



## RECOMMENDATION OF AWARD

March 18, 2020

Libby Heiny-Cogswell, Supervisor  
Oshtemo Township  
7275 W. Main Street  
Kalamazoo, MI 49009

**RE: Neighborhood Sewer Extension Phase 1-Contract B**

Dear Libby,

We have reviewed the bids received on February 28, 2020 for the above referenced project. Five bids were received and the bid summary is attached.

The low bidder is Dunigan Bros., Inc. of Jackson, Michigan with a bid amount of \$3,892,510.70.

I have reviewed the bids and all required bidding documents were submitted. Dunigan is a qualified firm and have the capacity to complete the project. Based on the above information we recommend award of the Neighborhood Sewer Extension Phase 1- Contract B to Dunigan Bros., Inc. of Jackson, Michigan with a bid amount of \$3,892,510.70.

Please feel free to call with any questions.

Sincerely,

FLEIS & VANDENBRINK ENGINEERING, INC.

A handwritten signature in black ink, appearing to read "Matt Johnson", is written over the printed name and title.

Matt Johnson, P.E.  
Project Manager

Enclosure

4798 Campus Drive  
Kalamazoo, MI 49008  
P: 269.385.0011  
F: 269.382.6972  
[www.fveng.com](http://www.fveng.com)

837250 Rec of Award - Contract B

**CHARTER TOWNSHIP OF OSHTEMO**  
**COUNTY OF KALAMAZOO, MICHIGAN**

Minutes of a regular meeting of the Township Board of the Charter Township of Oshtemo, held via a Zoom video teleconference, Kalamazoo, Michigan, on the 12th day of May, 2020, at 7:15 p.m.

PRESENT: Members: \_\_\_\_\_

ABSENT: Members: \_\_\_\_\_

The following preamble and resolution was offered by Member \_\_\_\_\_ and seconded by Member \_\_\_\_\_:

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION TO AUTHORIZE ISSUANCE OF CAPITAL IMPROVEMENT BONDS,  
GENERAL OBLIGATION LIMITED TAX, SERIES 2020A and 2020B**

WHEREAS, on October 9, 2018, the Township Board of the Charter Township of Oshtemo (the “Township”) adopted a resolution of intent (the “Resolution of Intent”) to acquire and construct improvements to and extensions of the Township’s sanitary sewer system and related road improvements including, without limitation, extensions in Westport, Meadowbrook, Frie & Gibbs, County Club, Whitegate Farms, Fairlane, and Skyridge Plat including Meriden Street (in entirety), Sunset Street (in entirety), 11th Street (Parkview Avenue to N Avenue) KL Avenue (8th Street to Autumn Way Boulevard), Beech Street (In entirety), 7th Street (West Main Street to South of Cross Country Drive) and West Main Street (8th Street to Township Hall west property line); together with related improvements and appurtenances including, but not limited to, sidewalk and shared paths installation, necessary easements, rights-of-way and interests in land, and the expenses of Township engineering, legal and financial consultants (together, the “Project”) and to fund all or part of the cost of the Project by the issuance of capital improvement

bonds in one or more series in the maximum principal amount of \$30,000,000 pursuant to Section 517(1) of Act 34 of the Public Acts of Michigan of 2001, as amended (“Act 34”); and

WHEREAS, a Notice of Intent to Issue Bonds was published pursuant to Section 517(2) of Act 34 and no petitions for referendum upon the question of issuing the bonds were filed with the Township during the 45-day period which commenced with the date of such publication; and

WHEREAS, the Township intends to pay for the costs of the Project using the proceeds of the Bonds, interest earnings on the Bonds, and Township funds on hand; and

WHEREAS, to finance the cost of the Project, the Township Board deems it necessary to borrow the aggregate sum of Nine Million Two Hundred Ten Thousand Dollars (\$9,210,000) and to issue its capital improvement bonds therefore in two series, the Series 2020A Bonds in the principal amount of \$8,346,000 (the “Series 2020A Bonds”) and the Series 2020B Bonds in the principal amount of \$864,000 (the “Series 2020B Bonds”) (collectively the Series 2020A Bonds and Series 2020B Bonds are referred to herein as the “Bonds”), in accordance with Act 34.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. **Necessity; Findings.** It is necessary for the public health, safety and welfare of the Township to undertake the Project and issue the Series 2020A Bonds and the Series 2020B Bonds of the Township therefore pursuant to Act 34. The Township Board makes the following findings:

a. The period of usefulness of the capital improvement items which comprise the Project is hereby determined to be not less than forty (40) years.

b. The Project is comprised of capital improvement items within the meaning of Act 34.

c. Based upon the Township’s 2020 state equalized value of \$1,119,412,400, the Township’s debt limit for bonds issued in accordance with Section 517(1) of Act 34 is



\$55,970,620, and the Township further determines that the aggregate of the Series 2020A Bonds and Series 2020B Bonds authorized for the Project in the amount of \$9,210,000, after taking into account that the Township has no bonds currently outstanding that were issued under Section 517(1) of Act 34, may be issued by the Township within the aforestated debt limit.

d. The principal and interest on the bonds proposed for the Project shall be paid from the Township Sewer Fund, other legally available funds or a combination thereof, and accordingly, together with debt service charges and connection fees, are expected to be sufficient to pay the principal and interest on the proposed Series 2020A Bonds and Series 2020B Bonds, as the same become due, and accordingly, the Township Board does not expect that it will be necessary to levy any taxes to pay the principal and interest on the proposed Bonds, and in no event will any taxes necessary to pay the principal of and interest on the Bonds, together with taxes levied for the same year, exceed the limits authorized by law.

2. **Authorization of Bonds; Security.** The Township shall borrow money and issue bonds in two series known as CAPITAL IMPROVEMENT BONDS (GENERAL OBLIGATION LIMITED TAX), SERIES 2020A and CAPITAL IMPROVEMENT BONDS (GENERAL OBLIGATION LIMITED TAX), SERIES 2020B in the aggregate principal sum of Nine Million Two Hundred Ten Thousand Dollars (\$9,210,000) pursuant to the provisions of Act 34 for the purpose of defraying the cost of the Project. The Bonds shall be a general obligation of the Township secured by the Township's full faith and credit and limited tax pledge, within applicable charter, statutory and constitutional tax limitations applicable to the Township. The Township shall not have the authority to levy additional taxes to pay the principal of and interest on the Bonds over presently existing township millage limits without a vote of Township electors.

3. **Terms of Bonds.** The Bonds shall be dated as of the date of delivery to the United States of America (the “Government”), shall bear interest at the rate(s) of interest per annum set forth below, payable on October 1, 2020, and semi-annually thereafter on each April 1 and October 1 until payment of the principal hereof has been made or duly provided for. The Bonds shall be issued in substantially the form and tenor as set forth in Exhibit A attached hereto, shall be in denominations of \$1,000 or any multiple thereof up to the amount of a single maturity and shall be due and payable on April 1 each year and in the amounts as follows:

**Series 2020A Bonds**

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest</u>	<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest</u>
2021	\$22000	2.375%	2041	\$217,000	2.375%
2022	\$22,000	2.375%	2042	\$220,000	2.375%
2023	\$142,000	2.375%	2043	\$223,000	2.375%
2024	\$144,000	2.375%	2044	\$226,000	2.375%
2025	\$147,000	2.375%	2045	\$228,000	2.375%
2026	\$149,000	2.375%	2046	\$232,000	2.375%
2027	\$151,000	2.375%	2047	\$234,000	2.375%
2028	\$150,000	2.375%	2048	\$238,000	2.375%
2029	\$158,000	2.375%	2049	\$241,000	2.375%
2030	\$181,000	2.375%	2050	\$244,000	2.375%
2031	\$185,000	2.375%	2051	\$247,000	2.375%
2032	\$190,000	2.375%	2052	\$250,000	2.375%
2033	\$192,000	2.375%	2053	\$254,000	2.375%
2034	\$196,000	2.375%	2054	\$280,000	2.375%
2035	\$202,000	2.375%	2055	\$283,000	2.375%
2036	\$204,000	2.375%	2056	\$286,000	2.375%
2037	\$206,000	2.375%	2057	\$286,000	2.375%
2038	\$209,000	2.375%	2058	\$289,000	2.375%
2039	\$211,000	2.375%	2059	\$295,000	2.375%
2040	\$214,000	2.375%	2060	\$298,000	2.375%

### Series 2020B Bonds

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest</u>	<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest</u>
2021	\$2,000	1.375%	2041	\$22,000	1.375%
2022	\$2,000	1.375%	2042	\$23,000	1.375%
2023	\$15,000	1.375%	2043	\$23,000	1.375%
2024	\$15,000	1.375%	2044	\$23,000	1.375%
2025	\$15,000	1.375%	2045	\$24,000	1.375%
2026	\$15,000	1.375%	2046	\$24,000	1.375%
2027	\$16,000	1.375%	2047	\$25,000	1.375%
2028	\$16,000	1.375%	2048	\$25,000	1.375%
2029	\$17,000	1.375%	2049	\$25,000	1.375%
2030	\$18,000	1.375%	2050	\$25,000	1.375%
2031	\$19,000	1.375%	2051	\$25,000	1.375%
2032	\$20,000	1.375%	2052	\$26,000	1.375%
2033	\$20,000	1.375%	2053	\$26,000	1.375%
2034	\$20,000	1.375%	2054	\$29,000	1.375%
2035	\$21,000	1.375%	2055	\$30,000	1.375%
2036	\$21,000	1.375%	2056	\$30,000	1.375%
2037	\$21,000	1.375%	2057	\$30,000	1.375%
2038	\$21,000	1.375%	2058	\$31,000	1.375%
2039	\$22,000	1.375%	2059	\$30,000	1.375%
2040	\$22,000	1.375%	2060	\$30,000	1.375%

In the alternative, a single bond for the Series 2020A Bonds and a single bond for the Series 2020B Bonds may be issued incorporating all maturities of such Bonds. The Bonds shall be sold for 100% of par value, without premium or discount.

Notwithstanding the foregoing or any other provision of this resolution, the Township Supervisor and Treasurer are authorized to approve the final terms of the Bonds in accordance with Paragraph 17.

4. **Payment of Principal and Interest.** The Bonds and the interest thereon shall be paid in lawful money of the United States of America by the Township Treasurer, acting as paying agent, transfer agent and bond registrar for the Bonds (the “Bond Registrar”). Interest shall be paid when due by check or draft drawn on the Bond Registrar and mailed by first class mail or other acceptable method to the registered owners of record as of each March 15 with

respect to payments due and payable on the immediately succeeding April 1, and as of each September 15 with respect to payments due and payable on the immediately succeeding October 1. Principal shall be payable at the principal office of the Bond Registrar upon presentation and surrender of the corresponding bond certificate.

5. **Redemption of Bonds Prior to Maturity.** Bonds maturing in the years 2021 to 2060, both inclusive, shall be subject to redemption prior to maturity, at the option of the Township, in whole or in part in increments of \$1,000 in direct order of maturity as the Township may determine and within any maturity by lot on any interest payment date on or after October 1, 2020, at par and accrued interest to the date fixed for redemption, without premium.

Notice of the call of any Bonds for redemption shall be given by first-class mail by the Bond Registrar, no less than thirty (30) days prior to the date fixed for redemption, to the registered owners of record at the registered addresses shown on the registration books kept by the Bond Registrar. Bonds shall be called for redemption in multiples of \$1,000 and Bonds of denominations of greater than \$1,000 shall be treated as representing the number of Bonds obtained by dividing the denomination of the Bond by \$1,000 and such Bonds may be redeemed in part. The notice of redemption for Bonds redeemed in part shall state that upon surrender of the Bond to be redeemed a new Bond or Bonds in aggregate principal amount equal to the unredeemed portion of the bond surrendered shall be issued to the registered owner thereof. No further interest payment on the Bonds or portions of the Bonds called for redemption shall accrue after the date fixed for redemption, whether or not the Bond is presented for redemption, provided funds are on hand with the Bond Registrar to redeem the same.

6. **Registration.** The Bonds shall be registered both as to principal and interest in substantially the form and tenor as set forth in Exhibit A attached hereto. Any individual bond shall be transferable on the bond register maintained with respect to the Bonds upon the

surrender of the individual bond together with an assignment executed by the registered owner or his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon receipt of a properly assigned Bond, the Bond Registrar shall authenticate and deliver a new bond or bonds in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees. Any individual bond may likewise be exchanged for one or more other bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the bond being exchanged. Such exchange shall be effected by surrender of the individual bond to be exchanged to the Bond Registrar with written instructions signed by the registered owner of the individual bond or his or her attorney in form satisfactory to the Bond Registrar. Upon receipt of an individual bond with proper written instructions the Bond Registrar shall authenticate and deliver a new bond or bonds to the registered owner of the Bond or his or her properly designated transferee or transferees or attorney. A transfer, exchange and registration of Bonds shall be without expense or service charge to the registered holder except for any tax or other governmental charge required to be paid with respect to such transfer, exchange or registration. The Bond Registrar shall not be required to transfer or exchange Bonds or parts of Bonds which have been selected for redemption.

7. **Duties of Bond Registrar.** The Bond Registrar shall, upon receipt of sufficient funds from the Township, make timely payments of principal and interest on the Bonds, authenticate the Bonds upon their initial issuance and subsequent transfer to successive holders, act as registrar of the Bonds including the preparation and maintenance of a current register of registered owners of the Bonds, coordinate the transfer of individual bonds between successive holders, including printing and transferring new certificates, and all other duties set forth in this Resolution or otherwise normally performed by paying, registration and transfer agents. All reasonable fees and expenses of the Bond Registrar shall be paid by the Township. The

Township reserves the right to designate an alternate financial institution to act as Bond Registrar for the Bonds and in such event the Township shall mail notice to all registered owners of the Bonds not less than 60 days prior to the effective date of said change in Bond Registrar.

8. **Replacement of Bonds.** Upon receipt by the Bond Registrar of proof of ownership of an unmatured bond, or satisfactory evidence that the bond has been lost, apparently destroyed or wrongfully taken and of security or indemnity which complies with applicable law and is satisfactory to the Bond Registrar, the Bond Registrar may deliver a new executed bond to replace the bond lost, apparently destroyed or wrongfully taken in compliance with applicable law. In the event an outstanding matured bond is lost, apparently destroyed or wrongfully taken, the Bond Registrar may pay the bond without presentation upon the receipt of the same documentation required for the delivery of a replacement bond. The Bond Registrar for each new bond delivered or paid without presentation as provided above, shall require the payment by the bondholder of expenses, including counsel fees, which may be incurred by the Bond Registrar and the Township in connection therewith. Any bond delivered pursuant to the provisions of this Paragraph 8 in lieu of any bond lost, apparently destroyed or wrongfully taken shall be of the same form and tenor and be secured in the same manner as the bond originally issued.

9. **Debt Service Fund.** There shall be established and maintained on the books of the Township Treasurer a fund to be designated “SERIES 2020 CAPITAL IMPROVEMENT BOND – DEBT SERVICE FUND” (the “Debt Service Fund”). Within such fund, the Treasurer shall establish two subaccounts: one for the Series 2020A Bonds and the other for the Series 2020B Bonds. Into such subaccounts, there shall be placed (i) the accrued interest, if any, from the date of each series of the Bonds to the date of delivery thereof; (ii) capitalized interest for each series of the Bonds, if any, from the date of delivery of each series of the Bonds, and (iii)

premium, if any, received at the time of delivery of either or both series of the Bonds. As part of the subaccounts within the Debt Service Fund, there shall be established and maintained such additional subaccounts as are deemed necessary and appropriate for the proper administration of the Debt Service Fund and compliance with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The principal of, premium, if any, and interest on each series of the Bonds together with the Registrar's fee and the cost of continuing disclosure, if any, for the term of each series of the Bonds, when due shall be paid directly out of the subaccounts of the Debt Service Fund for each series of the Bonds. All amounts hereby pledged to the prompt payment of the principal of and interest on the Bonds shall be kept and maintained in the Debt Service Fund so long as there are any of the Bonds, or interest thereon, outstanding and unpaid. After payment in full of the Bonds and the interest thereon, or after provision has been made for the payment in full of the Bonds and the interest thereon by investment of pledged amounts in the Debt Service Fund in direct obligations of the United States of America in amounts and with maturities sufficient to pay all principal and interest on the Bonds when due, the surplus remaining in the Debt Service Fund shall be used for such purposes as required or permitted by law.

10. **Construction Fund.** Prior to delivery and sale of the Bonds, there shall be established and maintained on the books of the Township Treasurer a separate account designated "SERIES 2020 CAPITAL IMPROVEMENT BOND – CONSTRUCTION FUND" (the "Construction Fund"). Within such fund, the Treasurer shall establish and maintain two subaccounts: one for the Series 2020A Bonds and the other for the Series 2020B Bonds. Into such subaccounts, after deducting a sum equal to the amount of any (i) accrued interest from the date of each series of the Bonds to the date of delivery thereof; (ii) capitalized interest on each series of the Bonds, if any, from the date of delivery of each series of the Bonds; and (iii)

premium, which sums shall be deposited in the Debt Service Fund, the balance of the proceeds of each series of the Bonds shall be deposited into the respective subaccounts of the Construction Fund for each series of the Bonds. The monies on deposit in the Construction Fund from time to time shall be used solely for the purpose for which the Bonds were issued. No proceeds of the Bonds shall be used to pay any cost not related to the Project as described in the Resolution of Intent. Any unexpended balance shall be used for such purposes as required or permitted by law including, without limitation, transfer to the Debt Service Fund for payment of principal, premium, if any, and interest on the Bonds at maturity or by redemption. After completion of the Project and disposition of remaining Bond proceeds, if any, pursuant to the provisions of this Section, the Construction Fund shall be closed.

11. **Bond Reserve Account.** Prior to delivery and sale of the Bonds, there shall be established and maintained on the books of the Township Treasurer a separate account designated “SERIES 2020 CAPITAL IMPROVEMENT BOND – BOND RESERVE FUND” (the “Bond Reserve Fund”). Within such account, the Treasurer shall establish and maintain two subaccounts: one for the Series 2020A Bonds and the other for the Series 2020B Bonds. Into such subaccounts, there shall be aside, annually commencing December 1, 2020, the amount of one-tenth of the Bond Reserve Requirement for the Series 2020A Bonds and the Series 2020B Bonds until an amount equal to the Bond Reserve Requirement for each series of the Bonds has been accumulated. For purposes of this paragraph, the Bond Reserve Requirement for the Series 2020A Bonds means an amount equal to the lesser of (i) 10% of the aggregate principal amount of the Series 2020A Bonds, (ii) an amount equal to the maximum annual principal and interest requirements on the Series 2020A Bonds, (iii) 125 percent (125%) of the average annual principal and interest requirements on the Series 2020A Bonds, or (iv) \$27,300; and, with respect to the Series 2020B Bonds, an amount equal to the lesser of (i) 10% of the aggregate principal



amount of the Series 2020B Bonds, (ii) an amount equal to the maximum annual principal and interest requirements on the Series 2020B Bonds, (iii) 125 percent (125%) of the average annual principal and interest requirements on the Series 2020B Bonds, or (iv) \$2,900. All investment earnings in a Bond Reserve Account Subaccount shall be maintained for the respective series of bonds for payment of current principal and interest thereon. Moneys credited to a subaccount of the Bond Reserve Account may be used for the payment of principal and interest on a series of Bonds or unanticipated emergency repairs; if at any time it shall be necessary to use moneys credited to a subaccount of the Bond Reserve Account for such purposes, then the moneys so used shall be replaced over a period of not more than five (5) years from Township funds on hand, which are not required for current principal and interest requirements on the Bonds. If at any time there is any excess in a subaccount of the Bond Reserve Account over the Bond Reserve Requirement for a particular series of Bonds, such excess may be transferred to such fund or account as the Township Board shall direct. No proceeds of the Bonds shall be used to fund the Bond Reserve Account.

12. **Investment of Funds.** The Township Treasurer shall keep full and complete records of all deposits to and withdrawals from the Debt Service Fund and the Construction Fund and of all investments of monies in such accounts and other transactions relating thereto. The Treasurer is authorized to invest the monies in said accounts in any one or more lawful investments authorized for townships by law and consistent with the Township investment policy.

13. **Covenant Regarding Tax Exempt Status of the Bonds.** The Township covenants to comply with all requirements of the Code necessary to assure that the interest on the Bonds will be and will remain excludable from gross income for federal income taxation (as opposed to alternative minimum or other indirect taxation). The Township hereby designates the

Bonds as “qualified tax exempt obligations” for purposes of deduction of interest expense by financial institutions under the provisions of Section 265(b)(3) of the Code, it being reasonably anticipated that the aggregate amount of tax exempt obligations which will be issued by the Township and all subordinate entities to the Township shall not exceed \$10,000,000 during calendar year 2020. The Township hereby covenants that the Township will make no use of the proceeds of the Bonds, which if such use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be “arbitrage bonds,” as defined in Section 148 of the Code. In addition, the Township covenants to comply with all applicable provisions of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the interest on the Bonds be excluded (or continue to be excluded) from gross income within the meaning of Section 103(a) of the Code.

14. **Duties of Township Treasurer.** The Township Treasurer shall keep full and complete records of all deposits to and withdrawals from the Debt Service Fund and the Construction Fund and of all investments of monies in such accounts and other transactions relating thereto. The Treasurer is authorized to invest the monies in said accounts in any one or more lawful investments authorized by law for Townships and consistent with the Township investment policy. So long as the Government is a registered owner of Bonds, the Township Treasurer and all other persons responsible for the handling of the monies on deposit from time to time in the Debt Service Fund and the Construction Fund shall execute a fidelity bond in the amount required by the Government with a surety company approved by the Government, which names the Township and the Government as co-obligees and the amount thereof shall not be reduced without the prior written consent of the Government.

15. **Revised Municipal Finance Act.** The Township currently meets the requirements of qualified status under Section 303(3) of Act 34, and shall comply with all

applicable requirements of Act 34, including the filing of a security report and the payment of the filing fee required by Section 319 of Act 34.

16. **Negotiated Sale of Bonds.** The Bonds shall be sold to the Government (the “Purchaser”) at par at a negotiated sale in accordance with the Loan Resolution adopted by the Township Board for each series of the Bonds. Pursuant to Section 309(1) of Act 34, the Township elects to sell the Bonds by negotiated sale instead of by competitive sale in order to evidence the favorable loan terms offered by the Government, e.g. a 40-year term at a fixed interest rate of 2.375% per annum for the Series 2020A Bonds and 1.375% for the Series 2020B Bonds, and unlimited right to optionally redeem the principal of the Bonds without premium on any interest payment date commencing October 1, 2020, and to avoid the additional cost of a public sale, which are not reasonably expected to be available to the Township by means of a conventional open market public sale.

17. **Approval of Final Terms of Bonds; Execution and Delivery of Bonds.** The Township Supervisor and Treasurer are hereby authorized and directed in accordance with Section 315(1)(d) of Act 34 to approve the final terms of the Bonds including, if necessary, increasing or reducing the principal amount of the Bonds, revising the amount of any principal maturity, approving the rate or rates of interest payable on the Bonds, approving revisions in the terms of redemption of the bonds, approving revisions in the principal and interest payment dates, approving the designation of separate series of bonds, approving a revision in the dated date of the Bonds, and revising the form of the Bonds and Schedule I in accordance with the foregoing. Notwithstanding the foregoing, the authority of the Supervisor and Treasurer is subject to the following limitations: (a) the aggregate principal amount of the Bonds shall not exceed \$9,210,000; (b) the final maturity of the Bonds shall not be later than April 1, 2060; and

(c) the rate of interest payable on the Series 2020A Bonds shall not exceed 2.375% and the rate of interest payable on the Series 2020B Bonds shall not exceed 1.375%.

The Township Supervisor and Township Clerk are authorized and directed to execute the Bonds in substantially the form approved with such necessary variations, omissions, corrections and insertions as they deem appropriate and are required for and on behalf of the Township, manually or by facsimile signature for and on behalf of the Township, and, if the Township has a seal, to place thereon the Township Seal or a facsimile thereof; provided that the Bonds shall be executed by the facsimile signatures of the said Supervisor and Township Clerk only if the bonds are thereafter manually authenticated by the Bond Registrar. The Township Supervisor, Clerk and Treasurer are authorized and directed to execute and deliver on behalf of the Township such other certificates, affidavits, investment agreements or other documents or other instruments, including applications for ratings or municipal bond insurance, as may be required by the Purchaser of the Bonds or Bond Counsel or convenient to effectuate the execution and delivery of the Bonds. Upon execution of the Bonds, the Township Treasurer is hereby authorized and directed to deliver or cause to be delivered the Bonds to the Purchaser, upon receipt of the purchase price therefor less any discount and plus any premium and accrued interest, if any, to the date of delivery. It is understood that the Government may take delivery of and/or pay for the Bonds in one or more installments. The Township shall furnish the Bonds ready for execution without expense to the Purchaser. The Township shall also furnish without expense to the Purchaser at the time of delivery of the Bonds, the approving opinion of Mika Meyers PLC, Attorneys, Grand Rapids, Michigan, approving the legality of the Bonds. The Bonds will be delivered at the expense of the Township in such place as agreed upon with the Purchaser. The proceeds of the Bonds shall be deposited into the Debt Service Fund and the Construction Fund, as provided in Paragraphs 9 and 10, above.

18. **Reservation of Rights.** The Township reserves the right to refund the Bonds, in whole or in part, prior to maturity, subject to the requirements of the Code and Act 34.

19. **Defeasance of Bonds; No Defeasance.** In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or such earlier date, if any, as the Bonds are subject to redemption in full, the principal of and interest on the Bonds, shall have been deposited in trust, this Bond Resolution shall be defeased and the owners of the Bonds shall have no further rights under this Bond Resolution except to receive payment of the principal of and interest on the Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Bonds as provided herein. So long as the Government is the Registered Owner of the Bonds, the Bonds shall not be subject to defeasance.

20. **Conflicts.** All resolutions and parts of resolutions inconsistent with the foregoing are hereby rescinded.

YEAS:       Members: \_\_\_\_\_

NAYS:       Members: \_\_\_\_\_

ABSTAIN:   Members: \_\_\_\_\_

RESOLUTION DECLARED ADOPTED

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Dusty Farmer, Clerk  
Charter Township of Oshtemo

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF KALAMAZOO     )

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Oshtemo, Kalamazoo County, Michigan (the “Township”), do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board at a regular meeting on the \_\_\_ day of May, 2020, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereto affixed my official signature on this \_\_\_\_ day of May, 2020.

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Dusty Farmer, Clerk  
Charter Township of Oshtemo

**EXHIBIT A**

REGISTERED

UNITED STATES OF AMERICA

REGISTERED

STATE OF MICHIGAN

COUNTY OF KALAMAZOO

CHARTER TOWNSHIP OF OSHTEMO

CAPITAL IMPROVEMENT BONDS

(GENERAL OBLIGATION LIMITED TAX), SERIES 2020\_\_

No. R-1

REGISTERED OWNER: United States of America

PRINCIPAL AMOUNT: \$\_\_\_\_\_

INTEREST RATE: \_\_\_\_\_ percent (\_\_\_\_%) per annum

DATE OF ORIGINAL ISSUE AND REGISTRATION: \_\_\_\_\_, with interest accruing on this Bond from the date each installment portion of the Principal Amount was delivered to the Registered Owner as set forth on the Certificate of Authentication and Registration.

The Charter Township of Oshtemo, County of Kalamazoo, State of Michigan (the "Township"), for value received, hereby promises to pay the Principal Amount shown above to the Registered Owner specified above in installments in the amounts and on the dates as set forth in Schedule I, attached hereto and made a part hereof, with interest thereon from the Date of Original Issue and Registration specified above until paid at the Interest Rate per annum specified above, payable on October 1, 2020, and semi-annually on each April 1 and October 1 thereafter from the April 1 or October 1 next preceding, unless interest on this bond has not been paid in full or duly provided for, in which case from the date to which interest has been paid in full, or if no interest has been paid on this bond, from the Date of Original Issue and Registration specified above, until payment of the Principal Amount has been made or duly provided for. The final installment of principal of this bond is payable at the principal office of the Oshtemo Township Treasurer, Oshtemo, Michigan (the "Bond Registrar"), or such other location as the Township may hereinafter designate by notice mailed to the registered owner not less than 60 days prior to any interest payment date. Payment of principal (except for the final installment) and interest shall be paid to the registered owner hereof by the Bond Registrar by first class mail or electronic transfer. The date of record shall be each March 15 and September 15 with respect to the payments due on each April 1 and October 1, respectively. The principal of and interest on this Bond shall be payable in lawful money of the United States.

This bond is one of a series of bonds of like date and tenor except as to date of maturity and rate of interest aggregating the principal sum of \$9,210,000 (the "Bonds") issued by the Township, under and pursuant to and in full conformity with the Constitution and statutes of

Michigan (especially Act 34 of the Public Acts of Michigan of 2001, as amended), and a bond authorizing resolution adopted by the Township Board (the “Bond Authorizing Resolution”) for the purpose of defraying all or part of the cost of the acquisition and construction of improvements to and extensions of the Township’s sanitary sewer collection, and related site work, improvements and appurtenances (the “Project”).

Bonds maturing in the years 2021 through 2060, both inclusive, shall be subject to redemption prior to maturity, at the option of the Township, in whole or in part in increments of \$1,000 in direct order of maturity and within any maturity by lot on any interest payment date on or after October 1, 2020, at par and accrued interest to the date fixed for redemption, without premium

Notice of the call of any Bonds for redemption shall be given by first-class mail by the Bond Registrar, no less than thirty (30) days prior to the date fixed for redemption, to the registered owners of record at the registered addresses shown on the registration books kept by the Bond Registrar. Bonds shall be called for redemption in multiples of \$1,000 and Bonds of denominations of greater than \$1,000 shall be treated as representing the number of Bonds obtained by dividing the denomination of the Bond by \$1,000 and such Bonds may be redeemed in part. The notice of redemption for Bonds redeemed in part shall state that upon surrender of the Bond to be redeemed a new Bond or Bonds in aggregate principal amount equal to the unredeemed portion of the bond surrendered shall be issued to the registered owner thereof. No further interest payment on the Bonds or portions of the Bonds called for redemption shall accrue after the date fixed for redemption, whether or not the Bond is presented for redemption, provided funds are on hand with the Bond Registrar to redeem the same.

The bonds of this series are a general obligation of the Township secured by the Township’s full faith and credit, which shall include the Township’s limited tax obligation, within applicable constitutional and statutory limits, and its general funds. Taxes levied by the Township to pay the principal of and interest on the bonds of this series are subject to constitutional, charter and statutory limitations.

This Bond has been designated as a “qualified tax exemption obligation” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This bond is transferable as provided in the Bond Authorizing Resolution, on the bond registration books of the Bond Registrar upon surrender of this bond together with an assignment executed by the registered owner or his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon such transfer, one or more fully registered bonds with denominations of \$1,000 or such larger denomination in the same aggregate principal amount and the same maturity and interest rate, will be issued to the designated transferee or transferees.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of the Bonds have been done, exist and have happened in due time and form as required by law, and that the total indebtedness of the Township, including the series of bonds of which this bond is one, does not exceed any constitutional, statutory or charter limitations.



This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Authorizing Resolution until the Certification of Registration and Authentication hereon shall have been manually signed by the Bond Registrar.

IN WITNESS WHEREOF, the Charter Township of Oshtemo, Michigan, by its Township Board, has caused this bond to be executed in its name by the manual or facsimile signature of its Township Supervisor and its Township Clerk, to be sealed in its name manually by the Township Clerk or by facsimile and to be authenticated by the Bond Registrar as the Township's duly appointed authenticating agent for the Bonds.

CHARTER TOWNSHIP OF OSHTEMO

[SEAL]

By: \_\_\_\_\_  
Libby Heiny-Cogswell, Supervisor

By: \_\_\_\_\_  
Dusty Farmer, Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

NOTHING TO BE WRITTEN HEREON EXCEPT  
BY THE BOND REGISTRAR

Date of Registration	Name of Registered Owner	Principal Installment Delivered	Signature of Bond Registrar
_____, 2020	United States of America	\$_____	

SCHEDULE 1 – CHARTER TOWNSHIP OF OSHTEMO  
PRINCIPAL AND INTEREST PAYMENTS

INTEREST RATE: \_\_\_\_\_ %  
PRINCIPAL AMOUNT: \$ \_\_\_\_\_

<b><u>Payment Date</u></b>	<b><u>Principal Payment</u></b>	<b><u>Interest Payment</u></b>
October 1, 2020		Accrued Interest
April 1, 2021		Accrued Interest
October 1, 2021		Accrued Interest
April 1, 2022		Accrued Interest
October 1, 2022		Accrued Interest
April 1, 2023		Accrued Interest
October 1, 2023		Accrued Interest
April 1, 2024		Accrued Interest
October 1, 2024		Accrued Interest
April 1, 2025		Accrued Interest
October 1, 2025		Accrued Interest
April 1, 2026		Accrued Interest
October 1, 2026		Accrued Interest
April 1, 2027		Accrued Interest
October 1, 2027		Accrued Interest
April 1, 2028		Accrued Interest
October 1, 2028		Accrued Interest
April 1, 2029		Accrued Interest
October 1, 2029		Accrued Interest
April 1, 2030		Accrued Interest
October 1, 2030		Accrued Interest
April 1, 2031		Accrued Interest
October 1, 2031		Accrued Interest
April 1, 2032		Accrued Interest
October 1, 2032		Accrued Interest
April 1, 2033		Accrued Interest
October 1, 2033		Accrued Interest
April 1, 2034		Accrued Interest
October 1, 2034		Accrued Interest
April 1, 2035		Accrued Interest
October 1, 2035		Accrued Interest
April 1, 2036		Accrued Interest
October 1, 2036		Accrued Interest
April 1, 2037		Accrued Interest
October 1, 2037		Accrued Interest
April 1, 2038		Accrued Interest
October 1, 2038		Accrued Interest
April 1, 2039		Accrued Interest
October 1, 2039		Accrued Interest
April 1, 2040		Accrued Interest
October 1, 2040		Accrued Interest
April 1, 2041		Accrued Interest
October 1, 2041		Accrued Interest
April 1, 2042		Accrued Interest

October 1, 2042		Accrued Interest
April 1, 2043		Accrued Interest
October 1, 2043		Accrued Interest
April 1, 2044		Accrued Interest
October 1, 2044		Accrued Interest
April 1, 2045		Accrued Interest
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April 1, 2046		Accrued Interest
October 1, 2046		Accrued Interest
April 1, 2047		Accrued Interest
October 1, 2047		Accrued Interest
April 1, 2048		Accrued Interest
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October 1, 2050		Accrued Interest
April 1, 2051		Accrued Interest
October 1, 2051		Accrued Interest
April 1, 2052		Accrued Interest
October 1, 2052		Accrued Interest
April 1, 2053		Accrued Interest
October 1, 2053		Accrued Interest
April 1, 2054		Accrued Interest
October 1, 2054		Accrued Interest
April 1, 2055		Accrued Interest
October 1, 2055		Accrued Interest
April 1, 2056		Accrued Interest
October 1, 2056		Accrued Interest
April 1, 2057		Accrued Interest
October 1, 2057		Accrued Interest
April 1, 2058		Accrued Interest
October 1, 2058		Accrued Interest
April 1, 2059		Accrued Interest
October 1, 2059		Accrued Interest
April 1, 2060		Accrued Interest
<b>Total Payments</b>	<b>\$</b>	

**LOAN RESOLUTION**  
(Public Bodies)A RESOLUTION OF THE Township BoardOF THE Oshtemo Charter Township

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

Sewer collection system

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Oshtemo Charter Township*(Public Body)*

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

Eight Million Three Hundred Forty-Six Thousand & 00/100pursuant to the provisions of Michigan Public Act 34 of 2001, as amended; and**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 0.00

under the terms offered by the Government; that the Township Supervisor

and Township Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas \_\_\_\_\_ Nays \_\_\_\_\_ Absent \_\_\_\_\_

IN WITNESS WHEREOF, the \_\_\_\_\_ of the

Oshtemo Charter Township has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this \_\_\_\_\_, \_\_\_\_\_ day of \_\_\_\_\_

(SEAL)

By Libby Heiny-Cogswell  
 Title Township Supervisor

Attest:

Dusty Farmer  
 Title Township Clerk

**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

I, the undersigned, as Township Clerk of the Oshtemo Charter Township

hereby certify that the \_\_\_\_\_ of such Association is composed of \_\_\_\_\_ members, of whom , \_\_\_\_\_ constituting a quorum, were present at a meeting thereof duly called and held on the \_\_\_\_\_ day of \_\_\_\_\_ ; and that the foregoing resolution was adopted at such meeting by the vote shown above, I further certify that as of \_\_\_\_\_ , the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
**Dusty Farmer**  
Title Township Clerk

**LOAN RESOLUTION**  
(Public Bodies)A RESOLUTION OF THE Township BoardOF THE Oshtemo Charter Township

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Sewer collection system

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Oshtemo Charter Township*(Public Body)*

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

Eight Hundred Sixty-Four Thousand & 00/100pursuant to the provisions of Michigan Public Act 34 of 2001, as amended; and**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*



11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ \_\_\_\_\_

under the terms offered by the Government; that the Township Supervisor

and Township Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was:                                      Yeas \_\_\_\_\_                                      Nays \_\_\_\_\_                                      Absent \_\_\_\_\_

IN WITNESS WHEREOF, the \_\_\_\_\_ of the

Oshtemo Charter Township has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this \_\_\_\_\_, \_\_\_\_\_ day of \_\_\_\_\_

(SEAL)

Attest:

By Libby Heiny-Cogswell  
Title Township Supervisor

Dusty Farmer  
Title Township Clerk

**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

I, the undersigned, as Township Clerk of the Oshtemo Charter Township

hereby certify that the \_\_\_\_\_ of such Association is composed of \_\_\_\_\_ members, of whom , \_\_\_\_\_ constituting a quorum, were present at a meeting thereof duly called and held on the \_\_\_\_\_ day of \_\_\_\_\_ ; and that the foregoing resolution was adopted at such meeting by the vote shown above, I further certify that as of \_\_\_\_\_ , the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
**Dusty Farmer**  
Title Township Clerk