




# CODE OF ORDINANCES SHARON TOWNSHIP

ADOPTED ON: September 9, 2019

AMENDED ON: February 2, 2023



**Page left blank intentionally**

# Table of Contents

Chapter I: General Provisions..... 1

Article 1. FISCAL YEAR..... 1

Section 1.1 Fiscal Year..... 1

Section 1.2 Settlement Day..... 1

Section 1.3 Annual Meeting of Electors..... 1

Article 2. CEMETERY ..... 2

Section 2.1 Title..... 2

Section 2.2 Purpose and Intent..... 2

Section 2.3 Classifications of Cemetery Burial Spaces and Lots..... 2

Section 2.4 Sale of Burial Spaces or Lots..... 2

Section 2.5 Purchase Prices and Transfer Fees..... 2

Section 2.6 Markers, Monuments and Mausoleums..... 3

Section 2.7 Interment, Disinterment and Reinternment Regulations..... 4

Section 2.8 Green Burials..... 4

Section 2.9 Cemetery Maintenance and Care..... 5

Section 2.10 Forfeiture of Vacant Cemetery Burial Spaces or Lots..... 6

Section 2.11 Records..... 6

Section 2.12 General Regulations..... 6

Section 2.13 Disclaimer of Township Liability and Responsibility..... 7

Section 2.14 Penalties..... 7

Section 2.15 Severability..... 7

Article 3. MUNICIPAL CIVIL INFRACTION ORDINANCE..... 8

Section 3.1 Title..... 8

Section 3.2 Definitions..... 8

Section 3.3 Municipal Civil Infraction Action: Commencement..... 8

Section 3.4 Discretion and Designation of Authority..... 9

Section 3.5 Municipal Ordinance: Civil Infraction Violation Bureau..... 9

Section 3.6 Civil Infraction Notice: Contents..... 11

Section 3.7 Civil Infraction Notice: Issuance and Service..... 11

Section 3.8 Civil Infraction Citation: Contents..... 14

Section 3.9 Civil Infraction Citation: Issuance and Service..... 14

Article 4. PENALTY PROVISIONS ..... 16

Section 4.1 Violations as Criminal Misdemeanors..... 16

Section 4.2 Penalty for Misdemeanor ..... 16

Section 4.3 Penalty for Violation of Municipal Civil Infraction Ordinance. .... 16

Section 4.4 Action in District Court..... 16

Section 4.5 Failure to Pay. .... 17

Section 4.6 Remedies. .... 17

Section 4.7 Assistance or Enabling as Violation..... 17

Chapter II: Public Safety..... 18

Article 1. FIRE ORDINANCE..... 18

Section 1.1 Applicability. .... 18

Section 1.2 Severability..... 18

Section 1.3 Definitions..... 18

Section 1.4 Non-Permit required Open Burning ..... 19

Section 1.5 Permit required Open Burning ..... 19

Section 1.6 How to obtain a Burning Permit ..... 19

Section 1.7 Rules for all Open Burning, regardless whether a permit is required. .... 19

Section 1.8 Burning Restrictions ..... 20

Section 1.9 Fire Suppression Training ..... 20

Section 1.10 Liability ..... 20

Section 1.11 Right of entry and inspection..... 20

Section 1.12 Prohibition, Enforcement, and Penalties..... 21

Article 2. TRESPASS ..... 23

Section 2.1 Trespass Is Prohibited. .... 23

Section 2.2 Specifically Enumerated Trespasses..... 23

Section 2.3 Penalties..... 23

Article 3. UNIFORM TRAFFIC CODE ..... 24

Section 3.1 Adoption of Uniform Traffic Code by Reference. .... 24

Section 3.2 Adoption of Provisions of Michigan Vehicle Code by Reference..... 24

Section 3.3 Adoption of Other State Laws by Reference..... 24

Section 3.4 Penalties..... 24

Article 4. VEHICLE WEIGHT LIMIT AND MOTOR CARRIER SAFETY ..... 25

Section 4.1 Vehicle Weight Limit..... 25

Section 4.2 Motor Carrier Safety..... 25

Article 5. COST RECOVERY ..... 26

Section 5.1 Purpose..... 26

Section 5.2 Definitions..... 26

Section 5.3 Cost Recovery Authorizations and Procedure..... 26

Section 5.4 Billing and collection of assessable costs..... 27

Section 5.5. Procedure for appealing assessable costs. .... 27

Section 5.6. Assessable costs a lien upon property. .... 28

Section 5.7. Other remedies. .... 28

Section 5.8. No limitation of liability..... 28

Chapter III: Building Regulations & Property Maintenance..... 29

Article 1. CONSTRUCTION CODES ..... 29

Section 1.1 Responsibility for Enforcement. .... 29

Section 1.2 Agency Designation. .... 29

Article 2. DUMPING ..... 30

Section 2.1 Maximum Height of Fill..... 30

Section 2.2 Proximity to Drains, Highways Drains, Catch Basin Rights of Ways and Public Roads.. 30

Section 2.3 Permitted Fill Materials..... 30

Section 2.4 Prohibited Fill Materials..... 30

Section 2.5 Required Cover. .... 30

Section 2.6 Permit Required. .... 30

Section 2.7 Permit Requirements. .... 30

Section 2.8 Testing..... 31

Section 2.9 Residential Property..... 32

Section 2.10 Penalties..... 32

Section 2.11 Construction. .... 32

Article 3. NUISANCE..... 33

Section 3.1 Public Nuisance Prohibited. .... 33

Section 3.2 Public Nuisance Defined..... 33

Section 3.3 Additional Definitions..... 33

Section 3.4 Littering and Accumulation of Garbage, Rubbish and Other Material Prohibited. .... 33

Section 3.5 Abandoned or Inoperable Motor Vehicles and Appliances..... 34

Section 3.6 Duty of Owner, Lessee or Occupant. .... 34

Section 3.7 Township to Do Work..... 34

Section 3.8 Penalty. .... 35

Section 3.9 Enforceability or Mandatory Injunction..... 35

Article 4. NOISE ORDINANCE ..... 36

Section 4.1 Purpose..... 36

Section 4.2 Definitions..... 36

Section 4.3 General Prohibited Noise..... 37

Section 4.4 Sound beyond property line. .... 37

Section 4.5 Maximum permissible sound levels from property located within the township. .... 37

Section 4.6 Mufflers and exhaust systems..... 38

Section 4.7 Maximum permissible sound levels from vehicles..... 38

Section 4.8 General exemptions..... 39

Section 4.9 Variances..... 39

Section 4.10 Responsibility..... 40

Section 4.11 Abatement; notice..... 40

Section 4.12 Enforcement; violations..... 40

Section 4.13 False Reports..... 40

Chapter IV: Land Use Regulations ..... 41

Article 1. LAND DIVISION ..... 41

Section 1.1 Definitions..... 41

Section 1.2 Prior Approval Requirement for Land Divisions..... 41

Section 1.3 Application for Land Division Approval..... 42

Section 1.4 Procedure for Review of Applications for Land Division Approval..... 42

Section 1.5 Standards for Approval of Land Divisions..... 43

Section 1.6 Consequences of Noncompliance with Land Division Approval Requirement..... 44

Article 2. MINERAL EXTRACTION ..... 45

Section 2.1 Findings..... 45

Section 2.2 License Required..... 45

Section 2.3 Compliance with License..... 45

Section 2.4 License Application..... 45

Section 2.5 Review of Application by Mineral License Board..... 50

Section 2.6 Issuance of License..... 51

Section 2.7 Form of License..... 51

Section 2.8 Compliance by Licensee..... 51

Section 2.9 Reclamation..... 54

Section 2.10 Revocation/Suspension..... 55

Section 2.11 Appeal..... 55

Section 2.12 Exemptions..... 56

Section 2.13 Violations..... 56

Section 2.14 Effective Date..... 57

Section 2.15 Severability..... 57

Section 2.16 Variances..... 57

Section 2.17 Relationship to Other Laws..... 58

Article 3. TELECOMMUNICATIONS..... 59

Section 3.1 Purpose..... 59

Section 3.2 Reservation of Rights..... 59

Section 3.3 Existing Maintenance Permits..... 60

Section 3.4 Terms Defined..... 60

Section 3.5 Permits ..... 61

Section 3.6 Permit Application Procedures..... 62

Section 3.7 Annual Permit Fees..... 64

Section 3.8 Duration of Permit; Renewal. .... 65

Section 3.9 Permit Terms and Requirements..... 66

Section 3.10 Use of Public Rights-of-way by Permittee..... 68

Section 3.11 No Township Liability; Indemnification..... 71

Section 3.12 Insurance..... 71

Section 3.13 No Assignment or Transfer of Control Without Township Consent..... 72

Section 3.14 Revocation. .... 72

Section 3.15 Removal. .... 73

Section 3.16 Other Provisions Not Waived..... 74

Section 3.17 Violation as Municipal Civil Infraction..... 75

Article 4. AGRICULTURAL DEVELOPMENT RIGHTS ..... 76

Section 4.1 Findings and Declaration of Purpose..... 76

Section 4.2 Definitions..... 77

Section 4.3 Authorization. .... 78

Section 4.4 Retained Residential Development Rights. .... 79

Section 4.5 Eligible Lands and Priority of Acquisition..... 79

Section 4.6 Farmland Preservation Board..... 83

Section 4.7 Selection..... 83

Section 4.8 Duration of Acquired Interests. .... 84

Section 4.9 Related Costs..... 85

Section 4.10 Supplemental Funds. .... 85

Section 4.11 Purpose..... 86

Section 4.12 Development Rights Funding Sources and Acquisition Fund..... 86

Section 4.13 Appendix B..... 87

Article 5. WETLANDS PROTECTION ORDINANCE ..... 90

Section 5.1 General..... 90

Section 5.2 Definitions..... 91

Section 5.3 Relationship to State and Federal Permit Requirements..... 94

Section 5.4 Administration. .... 94

Section 5.5 Activities in Wetland. .... 96

Section 5.6 Application..... 99

Section 5.7 Review..... 100

Section 5.8 Wetland Mitigation..... 107

Section 5.9 Fees, Penalties and Enforcement ..... 108

Section 5.10 State Notification ..... 111

Section 5.11 Ordinance Conflict..... 111

Section 5.12 Property Tax Assessment..... 112

Article 6. OIL AND GAS ANCILLARY ACTIVITIES ..... 113

Section 6.1 Title..... 113

Section 6.2 Definitions..... 113

Section 6.3 Findings..... 113

Section 6.4 Rationale..... 117

Section 6.5 Certificate of compliance required. .... 117

Section 6.6 Application requirements for issuance of a certificate of compliance. .... 117

Section 6.7 Issuance of certificate of compliance. .... 122

Section 6.8 Special conditions and restrictions..... 122

Section 6.9 State and federal compliance..... 122

Section 6.10 Denial. .... 123

Section 6.11 Suspension. .... 123

Section 6.12 Revocation. .... 123

Section 6.13 Appeal hearing. .... 124

Section 6.14 Release prohibited. .... 124

Section 6.15 Operator compliance with all permits, plans and agreements. .... 124

Section 6.16 Emergency response plan and training. .... 124

Section 6.17 Truck route. .... 124

Section 6.18 Site identification signage. .... 125

Section 6.19 Landscaping required..... 125

Section 6.20 Fence required. .... 125

Section 6.21 Exterior lighting. .... 125

Section 6.22 Access roads..... 125

Section 6.23 Pipelines..... 126

Section 6.24 Nuisance mitigation required. .... 126

Section 6.25 Dust, noise, vibration and odors. .... 126

Section 6.26 Power equipment. .... 126

Section 6.27 Disturbing the peace prohibited. .... 126

Section 6.28 Protection of residential well water. .... 126

Section 6.29 Disturbance of environmentally sensitive and protected areas. .... 126

Section 6.30 Monitoring..... 127

Section 6.31 Copy of data..... 127



Section 6.32 Waste disposal..... 127

Section 6.33 Well conversion..... 127

Section 6.34 Notices required; application..... 128

Section 6.35 Notice required; release..... 128

Section 6.36 Penalties and enforcement..... 129

Section 6.37 Applicability of the Act..... 129

Section 6.38 Severability..... 129

Section 6.39 Savings clause..... 129

Article 7. STATE-LICENSED MARIJUANA FACILITIES..... 130

Section 7.1 Short Title..... 130

Section 7.2 Definitions..... 130

Section 7.3 Authorized Marijuana Facilities..... 131

Section 7.4 Township Marijuana Grower Permit..... 133

Section 7.5 Township Processor Permit..... 133

Section 7.6 Township Marijuana Facility Permits..... 134

Section 7.7 Annual Marijuana Facility Fee..... 136

Section 7.8 Standards for Operations..... 137

Section 7.9 Reclamation, Abandonment or Cessation of permitted activities..... 138

Section 7.10 Violations and Penalties..... 138

Section 7.11 Revocation of Permit..... 139

Article 8. PROHIBITION OF MARIHUANA ESTABLISHMENTS (REPEALED)..... 140

Chapter V: Utilities..... 141

Article 1. ELECTRIC FRANCHISE..... 141

Section 1.1 Grant Term..... 141

Section 1.2 Consideration..... 141

Section 1.3 Conditions..... 141

Section 1.4 Hold Harmless..... 141

Section 1.5 Rates..... 141

Section 1.6 Franchise Not Exclusive..... 141

Section 1.7 Revocation..... 142

Section 1.8 Michigan Public Service Commission, Jurisdiction..... 142

Article 2. CONSUMERS ENERGY COMPANY GAS FRANCHISE..... 143

Section 2.1 Grant and Term..... 143

Section 2.2 Conditions..... 143

Section 2.3 Hold Harmless..... 143

Section 2.4 Extensions..... 143

Section 2.5 Franchise Not Exclusive..... 143

Section 2.6 Rates and Conditions..... 143

Section 2.7 Revocation. .... 143

Section 2.8 Michigan Public Service Commission Jurisdiction..... 143

Article 3. MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ..... 144

Section 3.1 Grant of Gas Franchise and Consent to Laying of Pipes, Etc. .... 144

Section 3.2 Installation and Extension of System. .... 144

Section 3.3 Use of Streets and Other Public Places..... 144

Section 3.4 Standards and Conditions of Service; Rules, Regulations and Rates..... 145

Section 3.5 Successors and Assigns..... 145

Section 3.6 Effective Date: Term of Franchise Ordinance: Acceptance by Company. .... 145

Article 4. COMMUNITY WASTEWATER UTILITY SYSTEMS ..... 146

Section 4.1 General..... 146

Section 4.2 Definitions..... 146

Section 4.3 Regulations. .... 148

Section 4.4 Fees, Penalties and Enforcement..... 155

Section 4.5 Ordinance Conflict..... 155

Section 4.6 Severability..... 156

# Chapter I: General Provisions

## Article 1. FISCAL YEAR

**Section 1.1 Fiscal Year.** Commencing in 1979, the fiscal year of the Township shall extend from July 1st of each year until June 30th of the following year. Any preexisting Township budget lawfully adopted by the Township Board shall be proportionately extended to coincide with the foregoing new fiscal year periods.<sup>1</sup>

**Section 1.2 Settlement Day.** The annual settlement day meeting of the Township Board shall hereafter be held on the 15th day of the last month of the fiscal year of the Township unless said day falls on a Saturday, Sunday or legal holiday whereupon said meeting shall be held on the following Monday which is not a legal holiday.<sup>2</sup>

**Section 1.3 Annual Meeting of Electors.** The annual meeting of the electors of the Township, where the same has not been abolished, shall be held on the last Saturday in the last month of the aforesaid fiscal year at such time and place as is determined by the Township Board.<sup>3</sup>

---

<sup>1</sup> Ord. No. 2, §1, adopted March 1, 1979

<sup>2</sup> Ord. No. 2, §2, adopted March 1, 1979

<sup>3</sup> Ord. No. 2, §3, adopted March 1, 1979

**Article 2. CEMETERY<sup>4</sup>**

**Section 2.1 Title.** This chapter shall be known and cited as the Sharon Township Cemetery Ordinance.

**Section 2.2 Purpose and Intent.** The Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds that the adoption and enforcement of this chapter is in the best interests of the property owners and residents of the Township, per their authority to acquire and maintain cemeteries granted by the Cemetery or Burial Grounds state law, MCL 128.1 et seq.; to permit for disposition of bodies per Section 2850 of the Public Health Code , MCL 333.2850; and to create cemetery regulations per the Cemetery Regulations Act, MCL 456.521 et seq.

**Section 2.3 Classifications of Cemetery Burial Spaces and Lots.** Burial spaces shall be classified by type and dimensions as follows:

- a. *Adult burial space* consists of land 42 inches wide and 10 feet long. An adult burial is any burial that involves a burial box greater than four feet in length.
- b. *Cemetery lot* shall consist of space sufficient to accommodate 6 burial spaces.
- c. *Cremains burial space* consists of land three (3) wide and three (3) feet long. A cremains burial is the burial of ashes of a cremated body.
- d. *Stillborn, infant or child burial space* consists of land three feet wide and four feet long. A stillborn, infant or child burial is any burial that involves a burial box less than four feet in length.
- e. *Scatter garden burials* are the right to scatter ashes in the scatter garden portion the cemetery designated for scatter remains.
- f. *Green burial plot* consists of land five (5) feet wide and 10 feet long.
- g. *Green burial cremains space* consists of land five (5) feet wide and five (5) feet long.

**Section 2.4 Sale of Burial Spaces or Lots.**

- a. Cemetery burial spaces or lots may be sold to Township residents and non-residents, including agents for an eligible purchaser. No sales shall be made to anyone, including funeral directors, for resale of the burial space or lot.
- b. The lawful owner of any cemetery plot within the Township shall promptly provide the township clerk with any change in that owner's mailing address, change of name or change of contact person.
- c. All sales shall be recorded on a form approved by the Township Board. The form grants only the right of burial and does not convey any other right to the lot or burial space sold. The Township Clerk shall complete the form.

**Section 2.5 Purchase Prices and Transfer Fees.**

- a. The Township Board, by resolution, will set fees for burial space costs, transfer fees, and interment fees on an annual basis. Fees amounts may be based on the classification of

---

<sup>4</sup> Adopted November 8, 2021. Effective December 1, 2021

cemetery burials or plot in Section 2.3 and the residency of the purchaser (i.e., Sharon Township resident or non-resident).

- b. The Township Board may periodically alter these fees to accommodate increased costs and needed reserve funds for cemetery management and land acquisition.
- c. All payments shall be made payable to Sharon Township.

**Section 2.6 Markers, Monuments and Mausoleums.**

- a. Only one monument, marker or other approved memorial is permitted per burial space.
- b. Monuments, markers and other memorials may be allowed to be installed on burial spaces or lots upon full payment of all fees.
- c. Monuments, markers or other memorials must meet the following requirements, to be reviewed by the Township Sexton:
  - (1) All markers, monuments and other memorials must be made of granite or another approved, equally-durable composition.
  - (2) All monuments or headstones shall be set on permanent foundations. All foundation work shall be done by cemetery workers and the Township Sexton shall have the right to accept or reject all orders for foundation work.
  - (3) The location is at the head of the burial space, parallel to the head of the burial space line.
  - (4) The height of the memorial is not greater than 48 inches, the depth of the memorial is not greater than 12 inches, and the length of the memorial is not greater than 80 inches.
  - (5) Markings, inscriptions, designs and shapes of monuments, markers, mausoleums or other memorials must not be offensive or obscene.. The Township Board has the authority to deem a marker, monument, mausoleum or other memorial to be offensive, obscene or inappropriate and thus prohibit it from being placed in the cemetery. Obscene shall mean that the average individual, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interests, a reasonable person would find the material, taken as a whole, lacks serious literary, artistic, political, or scientific value, and the material depicts or describes sexual conduct in a patently offensive way.
  - (6) The Township Board may grant an exception to the requirements 1 through 4, above, within the following parameters:
    - a. The dimension and height of monuments, markers or memorials may not interfere with the view from an adjacent lot, crowd or interfere with the use of adjacent lots.
  - (7) Mausoleums must be approved by the Township Board.
- d. The Township Board may, by resolution. set aside areas in which no monuments, other than flush-type monuments or headstones, will be permitted.
- e. If a marker, monument, other memorial or mausoleum becomes unsafe in the opinion of the Township Sexton, notice of the condition will be sent to the last known address of the owner, and the structure will be removed or repaired at the owner's expense.

**Section 2.7 Interment, Disinterment and Reinterment Regulations.**

- a. Only one body may be buried in a burial space, except for a mother and infant or two children buried at the same time.
- b. A maximum of two cremains shall be allowed to be placed in one burial space unless permission is otherwise granted by the Township Board.
- c. The interment of pet or animal bodies or cremains is prohibited.
- d. The Township Sexton shall receive at least 48-hour notice of the time of a funeral to allow for the opening of the burial space.
- e. The appropriate permit for the burial space and appropriate identification of the person to be buried, where necessary, shall be presented to either the Township Sexton or the Township Clerk prior to interment. If a permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the space is an authorized and appropriate one before starting any interment.
- f. All burial spaces shall be located in an orderly and neat-appearing manner within the confines of the space involved.
- g. All burials, except for green burials, shall be within a standard vault of concrete, fiberglass or other material approved by the Township Board, installed or constructed in each burial space before interment. Up to two (2) sets of cremains may be buried above a body or bodies in a single burial space.
- h. No burial shall take place unless the burial space fee for services required to open and close the grave, and all other fees have been paid in full.
- i. No cemetery spaces shall be opened or closed except under the direction and control of the Township Sexton. This provision shall not apply to proceedings under the control of the Washtenaw County Health Department.
- j. The Township assumes no responsibility for errors in opening graves when such errors are caused by others.
- k. Scattering cremains, except in designated scatter garden areas, is prohibited.
- l. In the event of unforeseen circumstances, the Township reserves the right to re-schedule any interment it deems necessary to ensure the safety of its employees.

**Section 2.8 Green Burials.** The natural designated portion of the Sharon Township's Cemetery is reserved for green burials, defined as burials that do not use a vault (partial, inverted, or otherwise), a vault lid, concrete box, slab or partitioned liner.

- a. Green burials must meet the following regulations:
  - (1) All materials must be biodegradable.
  - (2) Decedents are not to have been embalmed.
  - (3) Burial containers are to be limited to those made from materials that are nontoxic/nonhazardous and natural/plant derived, with shrouds permissible (i.e., untreated softwoods, wool, fiber, cloth, cardboard, seagrass, bamboo, wicker, hemp, paper maché).

- (4) Shrouded bodies must be entirely wrapped and be supported on a solid softwood board for lowering. A minimum of one inch by eight inch (1' x 8') board, which is the same length of the body, is recommended. Plywood and particle support boards are not acceptable.
  - (5) All graves will be mounded and mulched and allowed to return to their natural state.
  - (6) Grave markers are permitted, but not required. Flat natural fieldstone or quarried stone, no more than 300 inches square and three (3) inches thick may be used as a marker. In cases where a grave marker is used for two (2) or more adjoining plots grave markers may be larger but may not exceed 400 inches square and three (3) inches thick. Stones may not be machine cut or polished. Machine cut stones hand- chiseled to look "natural" are not acceptable.<sup>5</sup>
  - (7) Natural wreaths and flowers without vases or containers are permitted. No potted plants or plantings of any kind allowed on the green burial site. No artificial flowers or other decorations may be placed on graves.
- b. The natural designated portion of the Sharon Township's Cemetery reserved for green burials shall be maintained in the following manner:
- (1) Pesticides are prohibited.
  - (2) Unless a tree is deemed unsafe, unhealthy or contrary to conservation goals, all living existing trees will be left in place.
  - (3) Pathways will be mowed.
  - (4) Cars are not permitted inside the Natural Burial Ground, except by permission of Cemetery personnel.

### **Section 2.9 Cemetery Maintenance and Care.**

- a. No grading, leveling, or excavating upon a burial space shall be allowed without permission from the Township Sexton or the Township Clerk.
- b. No flowers, shrubs, trees or vegetation of any type may be planted without the approval of the Township Sexton or the Township Clerk. Any of these planted without approval may be removed by the Township Sexton.
- c. The Township Board reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- d. Mounds which hinder the free use of a lawn mower or other lawn-mowing device are prohibited.
- e. The Township Sexton shall have the right and authority to remove and dispose of vases and growth emblems, displays or containers that have become unsightly source of litter or a maintenance problem.
- f. Surfaces other than earth or sod are prohibited, except ground flush-type monuments or headstones.
- g. Dried flowers, wreaths, papers, flower containers and all other refuse must be removed or deposited in containers located within the cemetery.

---

<sup>5</sup> Amended on January 5, 2023.

- h. Cemetery care only includes seeding; top dressing; cutting and trimming grass, shrubs and trees, and the general upkeep of the cemetery. Cemetery care does not include the maintenance of markers, monuments, and memorial mausoleums.

**Section 2.10 Forfeiture of Vacant Cemetery Burial Spaces or Lots.**

- a. Cemetery burial spaces or lots sold after the effective date of this ordinance and remaining vacant for 40 years from the date of sale shall automatically revert to the Township if the following events occur:
  - (1) Notice is sent by the Township Sexton by first class mail to the last known address of the last owner of record informing him or her of the expiration of the 40-year period and that all the rights with respect to the burial spaces or lots will be forfeited if the owner does not indicate in writing to the Township Clerk within 60 days from the date of mailing the notice, the desire to retain the burial lots.
  - (2) A written response indicating the desire to retain the burial spaces or lots in question is not received by the Township Clerk from the last owner of record, the owner's heirs, or the owner's legal representative of the spaces or lots within 60 days from the date of mailing the notice.
- b. Upon written request by an owner, an owner's heirs, or an owner's legal representative, the Township will repurchase any cemetery lot or burial space from the owner for the original price paid to the Township.

**Section 2.11 Records.** The Township Clerk shall maintain records concerning all burials, issuance of burial permits and perpetual care funds separate from any other records of the Township. The records shall be open to the public during reasonable business hours.

**Section 2.12 General Regulations.**

- a. The cemetery shall be open to the general public from 30 minutes before sunrise to 30 minutes after sunset. Members of the general public in the cemetery after hours may be prosecuted for trespassing.
- b. No one shall be permitted in the Township cemetery at any other time unless he or she has the permission of the Township Board or Township Sexton.
- c. Animals, except leader dogs, are not permitted in the cemetery.
- d. No person shall obstruct any cemetery drive, walk or alley.
- e. No person shall injure, deface or destroy any burial space, marker, monument, mausoleum, building fence, seat, flower, tree, shrub or other item in the cemetery.
- f. Alcohol and alcoholic beverages are not permitted in the cemetery.
- g. No vehicles should drive faster than 5 miles per hour on cemetery roads.
- h. Driving off the established cemetery roads is prohibited.
- i. No firearms are allowed in the cemetery without written permission from the Township Clerk or Township Sexton, except in the case of military funerals or ceremonies by official veterans' organizations on federal holidays.
- j. Grave blankets must be removed by Memorial Day. Memorial items such as plastic flowers, vases and mementos must be removed by Labor Day. Perishable materials such as teddy bears will be held for pick up no longer than 30 days after removal.



**Section 2.13 Disclaimer of Township Liability and Responsibility.**

- a. Every person who enters, remains in and travels within the Township cemetery does so at their own risk. The Township is not responsible for any injury, accident, property damage or other calamity that might occur to any person present in the Township cemetery.
- b. The Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in the Township cemetery.
- c. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Township, but also to any Township employee, officer, elected or appointed official or representative, boards or commissions or agent.

**Section 2.14 Penalties.**

- a. Any person, firm or corporation who violates any of the provisions of the ordinance shall be considered a municipal civil infraction subject to a fine of up to \$500.
- b. Each day that a violation continues to exist shall constitute a separate offense.
- c. The Authorized Township Official, as defined in Section 3.2 of the Municipal Civil Infraction Ordinance (Chapter 1, Article 3 of the Code of Ordinances of Sharon Township), shall be the designated enforcement officer.

**Section 2.15. Severability**

The provisions of this Ordinance are hereby declared to be severable and if any provision, section or part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall only affect the particular provisions, section or part involved in such decision and shall not affect or invalidate the remainder of such Ordinance, which shall continue in full force and effect.

**Article 3. MUNICIPAL CIVIL INFRACTION ORDINANCE<sup>6</sup>**

**Section 3.1 Title.** This ordinance shall be known and cited as the Sharon Township Municipal Civil Infraction Ordinance.

**Section 3.2 Definitions.**

- a. "Act" means Chapter 87 of Act No. 236 of the Public Acts 1961, MCL 600.8701 et seq., The Revised Judicature Act of 1961; as amended, and Public Acts 12-26 of 1994, as amended.
- b. "Authorized Township Official," means a law enforcement officer or a Sharon Township official, or agent of the Township expressly authorized by this ordinance or any other Sharon Township ordinance to issue Municipal Civil Infraction Notices and Municipal Civil Infraction Citations.
- c. "Municipal Civil Infraction Ordinance Violation Bureau" [Violation Bureau] means the Violations Bureau at the Sharon Township Hall, as established by this ordinance.
- d. "Municipal Civil Infraction" means an act or omission that is prohibited by any ordinance of the Township, but which is not a crime under the ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act 236 of the Public Acts of 1961, as amended. A Municipal Civil Infraction Notice is not a lesser- included offense of a violation of any township ordinance that is a criminal offense.
- e. "Municipal Civil Infraction Action" means a civil action against an individual who is alleged to be responsible for violating a township municipal civil infraction ordinance.
- f. "Municipal Civil Infraction Violation Notice" [Civil Infraction Notice] means a written Notice, other than a Citation, prepared by an authorized Township official, directing a person to appear at the township Violation Bureau to pay the fines and costs prescribed for the violation of the ordinance or by the schedule of civil fines adopted by the Sharon Township Board.
- g. "Municipal Civil Infraction Violation Citation" [Civil Infraction Citation] means a written complaint or Citation prepared by an authorized Township official, directing a person to appear at the 14 A-1 Judicial District Court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- h. "Appearance" means timely response to the Violation Bureau with a return of the Civil Infraction Notice with an admission of responsibility and with full payment of applicable fines and costs, or the timely application to the 14 A-1 Judicial District Court to request a hearing on the alleged civil violation.

**Section 3.3 Municipal Civil Infraction Action: Commencement.**

- a. A Municipal Civil Infraction Action is commenced upon the issuance by an authorized Township official of either of the following:

---

<sup>6</sup> Adopted November 2, 2017

(1) A Civil Infraction Notice affording the alleged violator the opportunity to admit responsibility (without explanation) to the Sharon Township Violations Bureau and pay all fines and costs imposed, without further commencement of a Municipal Civil Infraction Action and without appearing in court; or

(2) A Civil Infraction Citation directing the violator to appear in the 14 A-1 Judicial District Court.

**Section 3.4 Discretion and Designation of Authority.**

a. Unless prohibited by state law or unless otherwise provided by specific contrary provisions of another Sharon Township ordinance, the following officials are authorized and empowered to investigate, issue and serve a Civil Infraction Notice and/or Citation for violations of township ordinances that provide for Municipal Civil Infraction penalties:

(1) The Township Supervisor

(2) The Township Zoning Administrator

(3) State, County or Local Law Enforcement Officer

b. Discretion: The Authorized Township Official has full right and authority to attempt to mitigate ordinance violations, as he or she deems necessary prior to the issuance of a Civil Infraction Notice or a Civil Infraction Citation. The Authorized Township Official has the option of writing a Civil Infraction Notice and subsequent Notices or a Civil Infraction Citation. The Authorized Township Official also has the option of requesting an informal or formal hearing in front of a judge or magistrate at the 14 A-1 District Court, without affording the alleged violator an initial opportunity to settle the violation with a Notice and payment at the Township Violation Bureau.

**Section 3.5 Municipal Ordinance: Civil Infraction Violation Bureau.**

a. Establishment

(1) The township establishes a Municipal Ordinance; Civil Infraction Violations Bureau as authorized under Section 8396 of the Act (MCL 600.8396) for the purpose of;

i. Accepting admissions of responsibility for ordinance violations designated as civil infractions for which Civil Infraction Notices have been issued and served by authorized township officials; to collect and retain civil fines and costs for such violations as prescribed herein.

ii. Being a point of contact for the issuance of a Civil Infraction Citation when the alleged violator denies responsibility for the violation or accepts responsibility with an explanation and wishes to proceed to district court.

iii. The township is not under any legal obligation to establish a Violations Bureau within the township limits. The Township Board has full and complete latitude as to when a Violations Bureau is established. If the township does not have a Violations Bureau, the 14 A-1 Judicial District Court will assume said responsibilities as delineated in this ordinance.

b. Location

(1) The Violation Bureau shall be located at the Sharon Township Hall, 18010 Pleasant Lake Road, Manchester, MI 48158.

- (2) The location of the Violation Bureau will be under the supervision of the Township Supervisor and if, due to an emergency or mitigating circumstance, the Bureau cannot serve the public at said location, the Township Supervisor shall deem a temporary location for the Bureau.
- (3) Any change of the location of the Violation Bureau will be made public as soon as practicable and will remain posted until said time that the supervisor declares a return to the Bureau's original location or a new location has been declared. The Township Clerk will provide the public with the Bureau's new location via prescribed public notices.

c. Personnel

- (1) All personnel of the Violation Bureau shall be employees or officials of Sharon Township. The Township Supervisor may appoint a Bureau Clerk with the duties prescribed herein and as otherwise, may be established and delegated by the Township Supervisor or Township Zoning Administrator.

d. Bureau Scope and Authority

- (1) The Violation Bureau shall only have authority to accept admissions of "responsibility without explanation" for a properly authorized Civil Infraction Notice and subsequently collect and retain the scheduled civil fines and costs for a violation specified pursuant to this Ordinance or other applicable ordinances. In no event shall the Violation Bureau determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.
- (2) The Violation Bureau shall not accept payment from a person who denies having committed the offense or who admits conditional responsibility ("responsible with an explanation"). If a person denies responsibility or admits conditional responsibility at the Violation Bureau, the Bureau Clerk may accept remittance of the Civil Infraction Notice in exchange for a Civil Infraction Citation with a date and time to appear in the 14 A-1 Judicial District Court.
- (3) The mere issuance of a Civil Infraction Notice by a township official does not require that such a Notice be disposed of at the Bureau. The alleged violator may relinquish the Civil Infraction Notice without prejudice at the Violation Bureau in exchange for a Civil Infraction Citation and request a hearing in the 14 A-1 Judicial District Court. The unwillingness of any person to accept responsibility of a violation at the Violation Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

e. Schedule of Civil Fines and Costs

- (1) Unless a different schedule of civil fines is provided for by the applicable ordinance, the civil fines payable to the Violation Bureau upon admission of responsibility by a person served with a Civil Infraction Notice shall be determined pursuant to the following schedule:

i. 1st violation within a 12-month period .....	\$100.00
ii. 2nd violation within a 12-month period.....	\$200.00
iii. 3rd violation within a 12-month period.....	\$400.00
iv. All subsequent violations within a 12-month period .....	\$500.00

- (2) Each subsequent day the violation continues is considered a separate violation under the applicable ordinance and shall be subject to penalties or sanctions as a separate offense. The issuance of subsequent violations is at the discretion of the authorized township official.

f. Records and Accounting

- (1) The Violations Bureau clerk or other designated township official shall retain a copy of all Municipal Civil Infraction Notices and Citations and shall account to the Township Board at least quarterly, or more often as the Township requires, concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Violation Bureau and the amount of fines and costs collected with respect to such violations.
- (2) The civil fines and costs collected shall be delivered to the Township Treasurer and shall be deposited in the general fund of the Township.
- (3) Copies of all Sharon Township Municipal Civil Infraction Notices and Citation will be retained pursuant to the 2008 Records Retention and Disposal Schedule for Michigan Township Clerks until the final disposition of the case plus seven (7) years thereafter.

**Section 3.6 Civil Infraction Notice: Contents.**

- a. A Civil Infraction Notice shall contain the name of the township, the name and address of the alleged violator, the Municipal Civil Infraction alleged, the location and telephone number of the Violation Bureau, the hours during which the Violations Bureau is open, the amount of the fine for the alleged violation, the consequences for failure to appear and pay the fine within the required time, and the date and times by which an appearance at the Violations bureau must be made.
- b. The Civil Infraction Notice shall inform the alleged violator that he or she may do one of the following:
  - (1) Admit responsibility for the civil infraction violation and pay all applicable fines and costs at the Violation Bureau either, in person, by representation, on-line (when available), or by mail, postmarked on or before the time specified on the Notice; or
  - (2) Admit responsibility for the Civil Infraction Notice "with an explanation" or deny responsibility for the Civil Infraction Notice, in person, by representation, or by mail, postmarked on or before the time specified on the Notice to the Violation Bureau, and the Bureau will subsequently issue and serve forthwith; a Civil Infraction Citation which affords the alleged violator the right to contact the 14 A-1 Judicial District Court and request an informal hearing which does not afford the alleged violator the opportunity to be represented by an attorney, or a formal hearing which affords the alleged violator the opportunity to be represented by an attorney.

**Section 3.7 Civil Infraction Notice: Issuance and Service.**

a. Issuance

- (1) An Authorized Township Official may issue a Civil Infraction Notice to a person if:
  - i. The authorized township official witnesses a violation of a township ordinance and has reasonable cause to believe that the person to whom the Notice will be issued is responsible for the Municipal Civil Infraction; or

- ii. Based upon an investigation of a complaint initiated by an individual who allegedly witnessed the person commit an ordinance violation, and the authorized township official has reasonable cause to believe that the person to whom the Notice will be issued is responsible for a Municipal Civil Infraction.
  - (2) Upon completion of an investigation into a Municipal Civil Infraction violation, an authorized township official will either;
    - i. Attempt to mitigate the ordinance violations as he or she deems necessary prior to the issuance of a Civil Infraction Notice or a Civil Infraction Citation.
    - ii. Prepare, issue, serve and file the appropriate copies of a civil infraction Notice as soon as practicable.
    - iii. Prepare, issue, and serve a Civil Infraction Citation and upon service, file it with the 14 A-1 Judicial District Court, or
    - iv. Make a determination that the defendant did not violate the township's ordinance and close the investigation.
  - (3) A Civil Infraction Notice signed by an authorized township official shall be treated as made under oath if the violation alleged in the Notice occurred in the presence of the authorized township official and if the Notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - (4) A Civil Infraction Notice signed by an authorized township official shall be treated as made under oath if the violation alleged in the Notice was issued based upon an investigation originating from a valid complaint, and if the Notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - (5) Each violation Notice shall be numbered consecutively and shall be in a form approved by the state court administrator. The original violation Notice shall be filed at the Violation Bureau. The Violation Bureau official shall retain a copy of the Civil Infraction Notice and a copy issued to the alleged violator as provided by Section 8705 of the Act.
- b. Service and Response
- (1) An authorized township official shall attempt to personally serve a copy of the Civil Infraction Notice upon the alleged violator as provided by Section 8707 of the Act (MCL 600.8707).
  - (2) If personal service is unsuccessful, the authorized township official shall serve the alleged violator a copy of the Civil Infraction Notice by mail to the violator's last known address.

- (3) An alleged violator who receives a Civil Infraction Notice shall pay all applicable fines and costs at the Violation Bureau either, in person, by representation, on-line (when available), or by mail, postmarked on or before the time specified on the Notice.
- (4) If an admission of responsibility is not made (regardless if the alleged violation has been corrected or ceases to exist) and the fines and costs are not paid at the Violation Bureau, on or before the time specified on the Notice, an authorized township official is authorized to do one of the following:
  - i. Issue a subsequent Civil Infraction Notice that carries an increased fine per the Schedule of Fines and Costs.
  - ii. Issue a Civil Infraction Citation and upon service, file it with the 14 A-1 Judicial District Court.
    1. All fines are cumulative. The alleged violator is responsible for payment in full for all fines and costs associated with each Notice issued and each Citation he or she is found responsible in the 14 A-1 Judicial District Court. The failure to appear for a written violation constitutes the continuance of the violation as written, regardless if the alleged violation has been corrected or ceases to exit.
- (5) If the alleged violator wishes to admit responsibility with an explanation or deny responsibility and yet does not do so on or before the time specified on the Notice, this failure to appear constitutes a default and an authorized township official is authorized to do one of the following:
  - i. Issue a subsequent Civil Infraction Notice that carries an increased fine per the Schedule of Fines and Costs.
  - ii. Issue a Civil Infraction Citation and upon service, file it with the 14 A-1 Judicial District Court.
    1. All fines are cumulative. The alleged violator is responsible for payment in full for all fines and costs associated with each Notice issued and each Citation he or she is found responsible in the 14 A-1 Judicial District Court. The failure to appear for a written violation constitutes the continuance of the violation as written, regardless if the alleged violation has been corrected or ceases to exit.
- (6) The Civil Infraction Citation filed with the court shall consist of a sworn complaint containing, at a minimum, the alleged violation of the ordinance, and shall fairly inform the alleged violator how to respond to the Citation.
- (7) An authorized township official shall personally serve a copy of the Civil Infraction Citation upon the alleged violator as provided by Section 8707 of the Act.
- (8) If personal service is unsuccessful the authorized township official shall serve the alleged violator a copy of the Civil Infraction Citation by mail to the violator's last known address.

**Section 3.8 Civil Infraction Citation: Contents.**

- a. A Civil Infraction Citation shall contain the name of the township, the name and address of the alleged violator, the Municipal Civil Infraction alleged, the location and telephone number of the Court where the alleged violator must appear, and the dates and times at which an appearance must be made.
- b. The Civil Infraction Citation shall also inform the alleged violator of the following:
  - (1) If the alleged violator desires to admit responsibility without explanation, the alleged violator may appear in the 14 A-1 Judicial District Court by mail, in person, or by representation, at or by the time specified for appearance and admit responsibility with full payment of applicable civil fines and costs;
  - (2) If the alleged violator desires to admit responsibility "with an explanation" the alleged violator must contact the 14 A-1 Judicial District Court in person by representation, by telephone or by mail, within the time specified for appearance and obtain a scheduled date and time to appear for a hearing whereupon; he or she may enter a plea with an explanation;
  - (3) If the alleged violator desires to deny responsibility, the alleged violator must contact the 14 A-1 Judicial District Court in person, by representation, by telephone or by mail, within the time specified for appearance and obtain a scheduled date and time to appear for a hearing;
  - (4) That the hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Authorized Township Official;
  - (5) That at an informal hearing, the alleged violator must appear in person before a district court magistrate or judge without the opportunity of being represented by an attorney;
  - (6) That at a formal hearing the alleged violator must appear in person before a district court judge and may have the opportunity of being represented by an attorney;
  - (7) The Civil Infraction Citation shall state in boldface type that the failure of the alleged violator to appear within the time specified on the Citation or at any scheduled hearing is a misdemeanor and will result in the entry of a default judgment against the alleged violator as well as additional fines and penalties, including the issuance of a bench warrant;
  - (8) A timely appearance means the return of the Citation with an admission of responsibility and with full payment of applicable civil fines and costs; return of the Citation with an admission of responsibility with explanation, or the timely application to the court for a scheduled date and time for a hearing.

**Section 3.9 Civil Infraction Citation: Issuance and Service.**

- a. Issuance
  - (1) An Authorized Township Official may issue a Civil Infraction Citation to a person if:
    - i. The authorized township official witnesses a violation of a township ordinance and has reasonable cause to believe that the person to whom the Citation will be issued is responsible for the Municipal Civil Infraction; or



- ii. Based upon an investigation of a complaint by an individual who allegedly witnessed the person commit a violation of a township ordinance, the authorized township official has reasonable cause to believe that the person to whom the Citation will be issued is responsible for a Municipal Civil Infraction.
    - iii. An admission of responsibility is not made, and the fines and costs are not paid at the Township Violation Bureau on or before the time specified on the Civil Infraction Notice.
  - (2) Upon completion of an investigation into a Municipal Civil Infraction violation, an authorized township official will either;
    - i. Prepare, issue, serve and file the appropriate copies of a Civil Infraction Citation as soon as practicable, or
    - ii. Make a determination that the defendant did not violate the township's ordinance and close the investigation.
  - (3) A Civil Infraction Citation signed by an authorized township official shall be treated as made under oath if the violation alleged in the Citation occurred in the presence of the authorized township official and if the Citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - (4) A Civil Infraction Citation signed by an authorized township official shall be treated as made under oath if the violation alleged in the Citation was issued based upon an investigation originating from a valid complaint, and if the Citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - (5) Each Citation shall be numbered consecutively. The original Citation shall be filed with the 14 A-1 Judicial District Court. Copies of the Citation shall be retained by the Violation Bureau and issued to the defendant as provided by Section 8705 of the Act.
- b. Service
  - (1) An authorized township official has the option of writing a Civil Infraction Notice or a Civil Infraction Citation. An authorized township official also has the option of requesting an informal or formal hearing in front of a judge or magistrate at the 14 A-1 Judicial District Court, without affording the alleged violator an initial opportunity to pay a Civil Infraction Notice at the Township Violation Bureau.
  - (2) An authorized township official shall personally serve a copy of the Civil Infraction Citation upon the alleged violator as provided by Section 8707 of the Act (MCL 600.8707). In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the Citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the Citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.
  - (3) If personal service is unsuccessful the authorized township official shall serve the alleged violator a copy of the Civil Infraction Citation by mail to the violator's last known address.

**Article 4. PENALTY PROVISIONS**

**Section 4.1 Violations as Criminal Misdemeanors.** Unless a violation of a township ordinance is specifically designated within that ordinance as a municipal civil infraction or a civil infraction, the violation shall be deemed a criminal misdemeanor, with procedures and penalties pertaining thereto as provided by law. This article is adopted in the interest of public safety and is designed to promote the general peace, health, safety and welfare of the Township of Sharon.

**Section 4.2 Penalty for Misdemeanor.** The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus cost of prosecution), or imprisonment not exceeding 93 days, or both, unless a specific penalty is otherwise provided for by the ordinance in question.

**Section 4.3 Penalty for Violation of Municipal Civil Infraction Ordinance.** A violation of the township's Municipal Civil Infraction Ordinance is a municipal civil infraction and a nuisance per se, for which the fine shall be pursuant to the following schedule, unless different fines and penalties are provided in the applicable ordinance:

a.

- (1) 1st violation within a 12-month period ..... \$100.00
- (2) 2nd violation within a 12-month period..... \$200.00
- (3) 3rd violation within a 12-month period..... \$400.00
- (4) All subsequent violations within a 12-month period ..... \$500.00

b. Each subsequent day the violation continues is considered a separate violation under the applicable ordinance and shall be subject to penalties or sanctions as a separate offense. The issuance of subsequent violations is at the discretion of the authorized township official. Such fine shall be in addition to all other costs, attorney fees, damages, and expenses incurred by the township in connection with the civil infraction, and other remedies as provided by law.

c. For purposes of this section, "subsequent offenses" means a violation of the same provision of the Municipal Civil Infraction Ordinance committed by the same person or property owner (and when related, for the same property) within twelve (12) months of a previous violation regardless of whether said person or property owner admitted responsibility, was adjudicated to be responsible, failed to appear, or defaulted on the issued violation.<sup>7</sup>

**Section 4.4 Action in District Court.** In addition to pursuing a Municipal Civil Infraction proceeding pursuant subsection A hereof, the township may also institute an appropriate action in the 14 A-1 Judicial District Court seeking injunctive, declaratory, or other equitable relief to enforce, restrain, prevent or abate any violation of any township ordinance or interpret the Municipal Civil Infraction Ordinance or any provision of any ordinance. Costs and expenses incurred by the township to enforce any injunctive relief or abate or prevent any violation of an ordinance may be assessed against the violator.

<sup>7</sup> Amended February 4, 2021. Effective February 18, 2021.

**Section 4.5 Failure to Pay.** If a person fails to pay any fines, penalties and/or costs assessed pursuant to this ordinance or any provision of any ordinance, then the amount due shall accrue interest at the rate of six percent annum from the date when it became due.

**Section 4.6 Remedies.** All remedies available to the township under this ordinance and Michigan Law shall be deemed to be cumulative and not exclusive.

**Section 4.7 Assistance or Enabling as Violation.** Any person, firm or entity that assists with or enables the violation of a Municipal Civil Infraction Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this ordinance involved for which such aiding and abetting occurred.

# Chapter II: Public Safety

## Article 1. FIRE ORDINANCE<sup>8</sup>

**Section 1.1 Applicability.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Township of Sharon by regulating the air pollution and fire hazards of open burning. This ordinance applies to all open burning within the Township of Sharon, Washtenaw County, Michigan.

**Section 1.2 Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

### Section 1.3 Definitions

- a. Campfire – a small fire that is less than three feet in diameter and two feet in height but not including a fire intended for disposal of waste wood or refuse.
- b. Clean wood – natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- c. Construction and demolition waste – building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction, remodeling, repair, and/or demolition operations on a house, commercial or industrial building, accessory buildings, or other structures.
- d. Fire Chief – The Chief or other designated officer of the fire department that has jurisdiction for the location. The Manchester Township Fire Department currently serves as the Fire Department for Sharon Township.
- e. Open burning – kindling or maintaining a fire where the products or combustion are emitted directly into the ambient air without passing through a stack or chimney.
- f. Outdoor burning – open burning or burning in an outdoor wood-fired boiler or patio wood-burning unit.
- g. Patio wood-burning unit – a chiminea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- h. Refuse – any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other natural vegetative matter.
- i. Prescribed Burn - the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels. A Prescription means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

---

<sup>8</sup> Amended May 13, 2021. Effective May 27, 2021.

- j. Bonfire – a small outdoor fire intended for recreation but not including a fire intended for disposal of waste wood or refuse. A Bonfire must be smaller than six (6) feet in diameter and four (4) feet in height.
- k. Burning Barrel – a container constructed of metal or masonry with a metal covering devise with holes no larger than three-quarters (3/4ths) of an inch.

#### **Section 1.4 Non-Permit required Open Burning**

The following Open Burning Fires Do Not require a Burning Permit.

- a. Campfires, as defined above.
- b. Patio wood-burning unit (chiminea).
- c. Charcoal or gas grill used for cooking food.
- d. Open burning of cardboard and paper products from a one- or two-family dwelling if it is contained in a burning barrel. Burning of any waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals or hazardous materials is strictly prohibited.

#### **Section 1.5 Permit required Open Burning**

The following Open Burning Fires do require a Burning Permit.

- a. Open burning of trees, logs, brush, stumps, leaves and grass clippings.
- b. Agricultural land open burning of fence rows, ditch banks, or crop stubble.
- c. Prescribed burning of forest prairie and wildlife habitat management grounds. Permit must be obtained at least two days prior to burning.
- d. Bonfires. However, Bonfires can be no larger than six feet in diameter and four feet in height, and may not be allowed to burn later than midnight on the date of the permit.

#### **Section 1.6 How to obtain a Burning Permit**

Burning permits will be issued by the Manchester Township Fire Department. To obtain a burning permit from the Manchester Township Fire Department call and leave a message per the voicemail instructions.

#### **Section 1.7 Rules for all Open Burning, regardless whether a permit is required.**

- a. The Open Burning must not create a nuisance, meaning that no materials shall be burned that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.
- b. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or visibility hazard on roadways, railroads, or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- c. No materials may be burned upon any street, curb, gutter, or sidewalk or on the ice of any lake, pond, stream, or other body of water.

- d. No burning shall be undertaken within 25 feet from any combustible vegetation, combustible material, combustible wall or partition, exterior window opening, exit or access exit.
- e. No burning may be conducted on days when the Michigan Department of Environment, Great Lakes, and Energy (EGLE) has declared an air quality action day applicable to the Township of Sharon and/or Washtenaw County.
- f. Open burning shall be conducted only on the property on which the materials were generated. This prohibition does not include campfires.
- g. Open burning shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property.
- h. Open burning shall be conducted during daylight hours only. This prohibition does not include campfires or bonfires.
- i. Open burning shall be constantly attended and supervised by a competent person of at least eighteen years of age until the fire is extinguished and is cold.

### **Section 1.8 Burning Restrictions**

- a. The following CANNOT be burnt: Construction and demolition waste, hazardous substances, batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents, furniture and appliances, tires, any plastic material, treated or painted wood (including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives), animal carcasses and refuse from any commercial or industrial establishment.
- b. Open burning on property that is zoned commercial or industrial is prohibited.
- c. All open burning is prohibited except as specifically allowed in this ordinance.

### **Section 1.9 Fire Suppression Training**

If a burn is started for the purpose of fire prevention training within the Township, the following must be adhered to:

- a. Any structure to be burnt must be inspected by a state licensed asbestos inspector, and the DEQ must be notified at least 10 days prior to burning.
- b. Fire suppression training must conform to the guidelines established by the National Fire Protection Association Standard on Live Fire Training Evolutions (NFPA 1403).

### **Section 1.10 Liability**

A person utilizing or maintaining an open burning fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire or any and all extinguishing methods.

### **Section 1.11 Right of entry and inspection**

The Fire Chief of Manchester Township or any authorized local official of Sharon Township who presents credentials may inspect any property within Sharon Township for the purpose of ascertaining compliance with the provisions of this ordinance.

**Section 1.12 Prohibition, Enforcement, and Penalties**

- a. The Sharon Township Supervisor shall be responsible for enforcing this ordinance. Except for the issuance of citations, the Supervisor may delegate the actual enforcement of the provisions of this ordinance to other township officials and personnel. For the issuance of citations, the Sharon Township Supervisor, the Fire Chief of Manchester Township, the Fire Marshal, the zoning inspector, the zoning administrator, building officials, and all police officers, Sheriff deputies, and State troopers who have jurisdiction within Sharon Township are authorized to issue citations for any violation of this ordinance as "authorized local officials" pursuant to MCL 600.8707.
  
- b. Any person, firm, association, partnership, corporation, or government entity who violates or authorized, allowed, or permitted a violation of any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction and a nuisance per se, for which the fine shall be pursuant to the following schedule:

(1) 1st violation within a 12-month period .....	\$100.00
(2) 2nd violation within a 12-month period.....	\$200.00
(3) 3rd violation within a 12-month period.....	\$400.00
(4) All subsequent violations within a 12-month period .....	\$500.00

Each subsequent day the violation continues is considered a separate violation of this ordinance and shall be subject to penalties or sanctions as a separate offense. The issuance of subsequent violations is at the discretion of the authorized township official or Manchester Fire Chief. Such fine shall be in addition to all other costs, attorney fees, damages, and expenses incurred by the township in connection with the civil infraction, and other remedies as provided by law.

For purposes of this section, "subsequent offenses" means a violation of the same provision of this ordinance committed by the same person or property owner (and when related, for the same property) within twelve (12) months of a previous violation regardless of whether said person or property owner admitted responsibility, was adjudicated to be responsible, failed to appear, or defaulted on the issued violation.

- c. In addition to the fine designated above, each person, firm, association, partnership, corporation, or government entity who violates or authorized, allowed, or permitted a violation of any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be summarily taxed the costs of the action, which are not limited to the costs taxable in ordinary civil infraction actions and may include all expenses, direct and indirect, to which Sharon Township has been put in connection with the municipal civil infraction, up to the entry of judgment, including, but not limited to, the cost of any and all personal injury, property damage, emergency response and restoration work caused by such violation.

- d. In addition to pursuing a Municipal Civil Infraction proceeding, the township may also institute an appropriate action in the 14 A-1 Judicial District Court seeking injunctive, declaratory, or other equitable relief to enforce, restrain, prevent or abate any violation of this ordinance or interpret this ordinance or any provision of this ordinance. Costs and expenses incurred by the township to enforce any injunctive relief or abate or prevent any violation of this ordinance may be assessed against the violator.



**Article 2. TRESPASS**

**Section 2.1 Trespass Is Prohibited.** It shall be unlawful for any person, firm or corporation to commit a trespass within this municipality upon either public or private property and entry upon the land of another without express or implied permission to do so shall be a trespass.<sup>9</sup>

**Section 2.2 Specifically Enumerated Trespases.** Without constituting any limitation upon the provisions of Section 2.1 hereof, any of the following acts by the person, firm or corporation shall be deemed included among those that constitute trespases in violation of the provisions of said Section 2.1 and appropriate action may be taken thereunder at any time or from time to time to prevent or punish any violation or violations of this ordinance. The aforesaid enumerated act shall include:

- a. Any entry upon the premises or any part thereof or another, including any public property in violation of a notice, posted or exhibited at the main entrance to said premises, or at any point of approach or entry or in violation of any notice, warning or protest given in writing by any owner or occupant thereof; or
- b. The pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to said premises, or at any point or approach or entry or in violation of any notice, warning or protest given in writing by any owner or occupant thereof; or
- c. A failure or refusal to depart from the premises of another in case of being requested by any owner or occupant thereof; or
- d. Any entry into or upon any vehicle, aircraft or watercraft made without the written consent of the person having the right to possession or control thereof or failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.<sup>10</sup>

**Section 2.3 Penalties.** A person, firm or corporation, violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of up to \$500 and/or imprisonment for up to 90 days in jail or both<sup>11</sup>.

---

<sup>9</sup> Ord. No. 5, §1, adopted August 5, 1976

<sup>10</sup> Ord. No. 5, §2, adopted Ord. No. 4, §9, adopted August 5, 1976 amended September 11, 1976

<sup>11</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 3. UNIFORM TRAFFIC CODE**

**Section 3.1 Adoption of Uniform Traffic Code by Reference.** The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 Public Act 306, as amended (MCL 24.201 et seq) and made effective October 30, 2002 is hereby adopted by reference. All references in said Uniform Traffic Code to a "governmental unit" shall mean the Township of Sharon.<sup>12</sup>

**Section 3.2 Adoption of Provisions of Michigan Vehicle Code by Reference.** The following provisions of the Michigan Vehicle Code, 1949 Public Act 300, as amended (MCL 257.1 et seq.) are hereby adopted by reference:

- a. Chapter I (Words and Phrases Defined): MCL 257.1-257.82.
- b. Chapter II (Administration, Registration): MCL 257.223, 257.225, 257.228, 257.243, 257.244, 257.255, 257.256.
- c. Chapter III (Operator's and Chauffeur's License): MCL 257.301, 257.310e, 257.311, 257.312, 257.312a, 257.324, 257.325, 257.326, 257.328.
- d. Chapter VI (Obedience to and Effect of Traffic Laws): MCL 257.601-257.601b, 257.602-257.606, 257.611-257.616, 257.617a-257.622, 257.624a-257.624b, 257.625 (except felony provisions), 257.625a, 257.625m, 257.626-257.626b, 257.627-257.627b, 257.628, 257.629b, 257.631-257.632, 257.634-257.645, 257.647-257.655, 257.656-257.662, 257.667-257.675d, 257.676-257.682b, 257.683-257.710e, 257.716-257.724.
- e. Chapter VIII (License Offenses): MCL 257.904-257.904a, 257.904e, 257.905.<sup>13</sup>

**Section 3.3 Adoption of Other State Laws by Reference.** Section 3102 of the Michigan Insurance Code of 1956, 1956 Public Act 218, as amended, pertaining to required insurance (MCL 500.3102) is hereby adopted by reference.<sup>14</sup>

**Section 3.4 Penalties.** The penalties provided by the Uniform Traffic Code and the provisions of the state laws hereinabove adopted by reference are hereby adopted as the penalties for any and all violations of this Ordinance.<sup>15</sup>

---

<sup>12</sup> Ord. No. 6, §2, adopted June 2, 2005

<sup>13</sup> Ord. No. 6, §3, adopted June 2, 2005

<sup>14</sup> Ord. No. 6, §4, adopted June 2, 2005

<sup>15</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 4. VEHICLE WEIGHT LIMIT AND MOTOR CARRIER SAFETY**

**Section 4.1 Vehicle Weight Limit.** MCL Sections 257.722, 257.724, 257.726 and 257.726 b; MS Sections 9.2422, 9.2424, 9.2426 and 9.2426 (2) (Vehicle Weight Limit), as amended, are hereby adopted and incorporated herein by reference.<sup>16</sup>

**Section 4.2 Motor Carrier Safety.** MCL Sections 480.11 et seq.; MSA Section 9.1666 et seq.: (Motor Carrier Safety), as amended, are hereby adopted and incorporated herein by reference.<sup>17</sup>

---

<sup>16</sup> Ord. No. 7, §3, adopted September 4, 1997

<sup>17</sup> Ord. No. 7, §3, adopted September 4, 1997

**Article 5. COST RECOVERY<sup>18</sup>**

**Section 5.1 Purpose.** In order to protect the Township from extraordinary expenses resulting from the utilization of Township resources in response to certain public safety or fire emergency incidents, this article authorizes the imposition of charges to recover actual costs incurred by the Township in responding to such incidents.

**Section 5.2 Definitions.** Unless the context specifically indicates otherwise, the meaning of the terms used in this article shall be as follows:

- a. Assessable Costs means:
  - (1) Those costs for services incurred by the Township in connection with a response to a public safety incident, including, but not limited to, the actual labor and material costs of the Township (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of transportation, costs of material disposal and costs of contracted labor) whether or not the services are provided by the Township or by a third party on behalf of the Township;
  - (2) Collection fees charged by any third-party billing and/or collection service;
  - (3) Service charges and interest;
  - (4) Attorneys' fees and/or litigation costs; and
  - (5) Any costs, charges, fines or penalties to the Township imposed by any court, state or federal governmental entity<sup>19</sup>.
- b. Public Safety Incident means any incident requiring fire, police and/or emergency Services which are:
  - (1) Provided by the Township; or
  - (2) Provided pursuant to a contract with the Township; or
  - (3) Charged to the Township by any other public or private agency.
- c. Responsible Party means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity responsible for a public safety or fire emergency incident or any owner, tenant, occupant or party in control of real and personal property from which, onto which or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

**Section 5.3 Cost Recovery Authorizations and Procedure.**

- a. The Township may recover all assessable costs in connection with a public safety incident from any or all responsible parties jointly or severally.
- b. The Township Supervisor or a designee shall determine the total assessable costs and shall in consultation with other personnel involved in responding to a public safety incident determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determination, the following shall be considered

---

<sup>18</sup> Sharon Township Cost Recovery Ordinance, adopted February 7, 2008, effective March 15, 2008.

<sup>19</sup> Amended February 4, 2021. Effective February 18, 2021.

- (1) The total assessable costs;
  - (2) The risk the public safety or fire emergency incident imposed on the Township, its residents and their property;
  - (3) Whether there was any injury or damage to person or property;
  - (4) Whether the public safety or fire emergency incident required evacuation;
  - (5) The extent the public safety or fire emergency incident required an unusual or extraordinary use of Township personnel and equipment, and
  - (6) Whether there was any damage to the environment.
- c. After consideration of the factors in (b) immediately above, the Township Supervisor may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefor or is legally at fault.
- d. If the Township Supervisor determines not to assess all or a part of assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to other parties.

**Section 5.4 Billing and collection of assessable costs.**

- a. After determining to assess assessable costs against a responsible party, the Township Treasurer, or such other person or persons as designated by the Township Board, shall mail an itemized invoice to the responsible party at its last known address. Such invoice shall be due and payable within thirty (30) days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to one percent (1%) per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid.
- b. If a responsible party shall appeal assessable costs pursuant to Section 5.3 hereof, such costs, if upheld, in whole or in part, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

**Section 5.5. Procedure for appealing assessable costs.**

- a. Any responsible party who receives an invoice for assessable costs shall have an opportunity to meet with the Township Supervisor or his or her designee to request a modification of assessable costs. The responsible party shall request in writing such meeting within seven (7) calendar days of the date of the invoice assessing the assessable costs.
- b. If after meeting with the Township Supervisor or his or her designee the responsible party is still not satisfied, he or she may request an opportunity to appear before the Township Board to further request a modification of assessable costs. A responsible party who desires to appear before the Township Board must first meet with the Township Supervisor or his or her designee as provided above and shall file a written request to appear before the Township Board with the Township Clerk within seven (7) calendar days of the date of the meeting with the Township Supervisor.
- c. Upon receipt of such request, the Township Clerk will place the responsible party on the agenda of the next regularly scheduled Township Board meeting, which meeting is at least fourteen (14) calendar days after the date on which the responsible party files

the request to appear.

- d. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Any reason, basis or argument for modification of assessable costs not set forth in the request to appear shall be deemed waived by the responsible party.
- e. Failure to timely file a written request to appear shall constitute a waiver of the responsible party's right to appear before the Township Board; and shall further constitute the responsible party's agreement to pay the assessable costs invoiced.
- f. After a responsible party has been given an opportunity to appear before it, the Township Board shall promptly determine whether to confirm, modify or void the payment of assessable costs invoiced.

**Section 5.6. Assessable costs a lien upon property.**

Assessable costs assessed against a responsible party not paid when due, including late payment fees, shall constitute a lien upon the real property of the responsible party in the Township, from which, upon which or related to which the public safety or fire emergency incident occurred. Such lien shall be of the same character and effect as the lien created by Township charter for Township real property taxes and shall include accrued interest and penalties. The Township treasurer shall prior to March 1 of each year, certify to the Township assessor the fact that such assessable costs are delinquent and unpaid. The Township assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

**Section 5.7. Other remedies.**

In addition to the remedy set forth in Section 5.6 above, the Township shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

**Section 5.8. No limitation of liability.**

The recovery of assessable costs pursuant hereto does not limited the liability of a responsible party under applicable local, state or federal law.

# Chapter III: Building Regulations & Property Maintenance

## Article 1. CONSTRUCTION CODES

**Section 1.1 Responsibility for Enforcement.** Pursuant to the provisions of Section 8b (6) of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, Sharon Township hereby assumes responsibility for the administration and enforcement of the State Construction Code, including the building code, electrical code, mechanical code and plumbing code provisions, throughout its corporate limits.<sup>20</sup>

**Section 1.2 Agency Designation.** Sharon Township hereby designates the following agencies as having responsibility for the administration and enforcement of the building, electrical, mechanical and plumbing code provisions of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, throughout its corporate limits:

- a. The Building Code Official of Sharon Township is hereby designated as the enforcing agency to discharge the responsibility of the Township of Sharon under the building code;
- b. The Electrical Code Official of Sharon Township is hereby designated as the enforcing agency to discharge the responsibility of the Township of Sharon under the electrical code;
- c. The Mechanical Code Official of Sharon Township is hereby designated as the enforcing agency to discharge the responsibility of the Township of Sharon under the mechanical code;
- d. The Plumbing Code Official of Sharon Township is hereby designated as the enforcing agency to discharge the responsibility of the Township of Sharon under the plumbing code.<sup>21</sup>

---

<sup>20</sup> Ord. No. 11, §2, adopted April 4, 2002

<sup>21</sup> Ord. No. 11, §3, adopted April 4, 2002

**Article 2. DUMPING**

**Section 2.1 Maximum Height of Fill.** There shall be no dumping of materials used for fill allowed to exceed by 3 feet the elevation of the nearest public highway or the elevation of the highest point of the parcel on which the dumping permit has issued.<sup>22</sup>

**Section 2.2 Proximity to Drains, Highways Drains, Catch Basin Rights of Ways and Public Roads.** There shall be no fill or dumping allowed within 25 ft. of any county drain, highway drain, any drain catch basin, rights of ways and public roads.<sup>23</sup>

**Section 2.3 Permitted Fill Materials.** Materials allowed to be used for fill shall be limited to concrete or earth.<sup>24</sup>

**Section 2.4 Prohibited Fill Materials.** Any materials not specifically permitted to be used for fill in Section 2.3 above shall not be dumped or stored on any land parcels in the Township of Sharon.<sup>25</sup>

**Section 2.5 Required Cover.** Within 30 days after expiration of a dumping permit, concrete used for fill must at all times be covered by a minimum of 12 inches, of dirt (earth). The cover required by this section shall be graded to provide a slope no greater than 1-foot vertical drop for every 4 feet of horizontal grade.<sup>26</sup>

**Section 2.6 Permit Required.** Any dumping or fill activity must obtain a permit before work is started. A dumping permit issued by the Township shall only be good for 30 days from the date of issuance.<sup>27</sup>

**Section 2.7 Permit Requirements.** Prior to receiving a permit, all persons must submit the following to the Township:

- a. An application for dumping permit. Applications shall be obtained from and filed with the Township Clerk. The completed application shall provide the following information:
  - (1) Name, address and telephone number of the applicant
  - (2) Location of where the dumping is to occur
  - (3) Name address and telephone number of the person owning the land where the dumping is to occur, if different than the applicant.
  - (4) Name address and telephone number of the person(s) owning the material to be dumped and the land from which the material to be dumped being is to be removed, if different than the applicant.
  - (5) Identify the types of materials to be dumped.
  - (6) Identify the source of the material to be dumped.
  - (7) Indicate whether any dumping has occurred on the subject property within the past

---

<sup>22</sup> Ord. No. 9, §1, adopted November 6, 1997

<sup>23</sup> Ord. No. 9, §2, adopted September 5, 2002

<sup>24</sup> Ord. No. 9, §3, adopted September 5, 2002

<sup>25</sup> Ord. No. 9, §4, adopted September 5, 2002

<sup>26</sup> Ord. No. 9, §5, adopted September 5, 2002

<sup>27</sup> Ord. No. 9, §6, adopted September 5, 2002



- (8) 10 years.
- b. A sketch drawing showing the area where the material is to be dumped.
  - c. Applicant's acknowledgment that he has an obligation to remove from the property any illegal fill placed on the property and if,
  - d. If the applicant is not the owner of the property where the dumping is to occur, a written agreement executed by the owner authorizing the dumping of materials and acknowledging the obligation of the land owner to remove from the property any illegal fill placed on the property and if, such illegal fill is not removed in a timely fashion by either the applicant or land owner, authorizing the Township to enter onto the premises to undertake the removal of such illegal fill, agreeing to reimburse the Township for the cost associated with such a cleanup and authorizing the Township to assess the costs of clean up against the property by placing them on the tax rolls, if the costs of cleaning up the property is not reimbursed to the Township within 30 days after an invoice is presented to either the applicant or land owner.
  - e. A permit fee as hereafter set by the Sharon Township Board in the Sharon Township Fee Schedule.<sup>28</sup>

### **Section 2.8 Testing.**

- a. In all cases where the application for a dumping permit indicates that the source for the material being dumped is coming from property other than the property on which the material is to be dumped, the Township may, at the applicant's expense, test the property where the dumping is to occur for the presence of illegal fill which shall consist of:
  - (1) Non-permitted materials and/or
  - (2) Hazardous wastes as defined by the United States Environmental Protection Agency and/or the Michigan Department of Environmental Quality.
- b. If such testing is required by the Township, the results of the test shall be forwarded to the applicant and the owner of the land where the dumping is to occur.
- c. In the event the testing demonstrates that dumped materials contain any illegal fill, the applicant and/or land owner, at his own expense, shall immediately remove and properly dispose of such illegal fill.
- d. If the applicant and/or land owner fails to take steps to remove the illegal fill within 30 days of the date that notification of its presence, the Township is authorized to enter onto the subject property and to contract to have the illegal fill removed and properly disposed. In such instances, the applicant and land owner shall be jointly and severally liable to reimburse the Township for any costs associated with cleanup efforts. If the Township does not receive reimbursement within 30 days of invoicing the applicant and/or land owner for the cost of cleanup, the Township may bring civil action against the applicant and/or land owner to recover the cost and all attorney fees incurred in connection with the clean-up process and in addition, the Township is authorized to assess such costs, including attorney fees, against the real property by placing them on the tax rolls.<sup>29</sup>

---

<sup>28</sup> Ord. No. 9, §7, adopted September 5, 2002

<sup>29</sup> Ord. No. 9, §8, adopted September 5, 2002

**Section 2.9 Residential Property.** All property zoned residential shall be exempt from obtaining dump and fill permit if the only fill be dumped is uncontaminated soil and the fill does not exceed 12 inches in depth.<sup>30</sup>

**Section 2.10 Penalties.** Any person, partnership, firm, association, or corporation found to be in violation of this Ordinance shall be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Any person, firm or corporation found in violation of this ordinance shall also be responsible for any cost incurred by the Township to enforce this ordinance, including court costs and attorneys' fees, as well as the cost of any and all personal injury, property damage, emergency response and restoration work caused by such violation. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In particular, each day that illegal fill material dumped or stored on property in the Township remains on site shall constitute a separate offense under this ordinance<sup>31</sup>.

**Section 2.11 Construction.** Wherever the word "person" is used in this ordinance it shall also be deemed to include all firms, associations, organizations, partnerships, trust companies and/or corporations as well as individuals; wherever the singular is used it shall also include the plural; wherever the masculine is used it shall also include the feminine and neutral.<sup>32</sup>

---

<sup>30</sup> Ord. No. 9, §9, adopted September 5, 2002

<sup>31</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>32</sup> Ord. No. 9, §11, adopted September 5, 2002

**Article 3. NUISANCE**

**Section 3.1 Public Nuisance Prohibited.** No person shall commit, create or maintain any public nuisance.<sup>33</sup>

**Section 3.2 Public Nuisance Defined.** Any act or omission to act on the part of any person which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons or property is deemed to be a public nuisance. As defined herein, a public nuisance includes, but is not limited to, those conditions specifically forbidden by the provisions of this Ordinance and all such other conditions which render persons insecure in life or in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, barking dogs, decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A public nuisance also includes residues or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals. A public nuisance includes a condition which is indecent, obnoxious, or offensive to the senses.<sup>34</sup>

**Section 3.3 Additional Definitions.** The meaning of terms used in this Ordinance shall be as follows:

- a. "Appliance" shall mean any mechanism which is operated by gas, electric current or motor, including, but not limited to, an ice box, refrigerator, or stove.
- b. "Garbage" shall mean all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, and shall include all such substances from all public and private establishments and from all residences.
- c. "Motor Vehicles" are hereby defined as any wheeled vehicles which are self-propelled or intended to be self-propelled.
- d. "Inoperable Motor Vehicles" are defined as motor vehicles which by reason of dismantling, lack of repair, or other cause are incapable of being propelled under their own power.
- e. "Dismantled or Partially Dismantled Motor Vehicles" are defined as motor vehicles from which some part or parts which are ordinarily a component of such motor vehicle has been removed or is missing.
- f. "Person" or "persons" shall mean a natural person and also includes corporations, partnerships and associations and their officers and officials existing under or authorized to exist under the laws of the State of Michigan or of any other state or any foreign country and all other entities of any kind capable of being sued.
- g. "Rubbish" shall mean dirt, leaves, grass trimming, tin cans, wastepaper, ashes, straw, shavings, junk and in general, non-putrescible wastes, normally incident to the lawful use of the premises on which accumulated.<sup>35</sup>

**Section 3.4 Littering and Accumulation of Garbage, Rubbish and Other Material Prohibited.** No person shall place, deposit, throw, scatter or leave in any street, alley or public place, or on the private property of another, any refuse, waste, garbage, dead animal, rubbish, wash water or other noxious or

---

<sup>33</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>34</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>35</sup> Ord. No. 10, §3, adopted January 6, 2005

unsightly material which interferes with the operation and use of motor vehicles in streets, alleys or public places. It shall be the duty of every occupant of property and the owner of unoccupied property at all times to maintain the premises occupied or owned by him, in a clean and orderly condition, permitting no deposit or accumulation of garbage or rubbish upon such premises, unless stored or accumulated as hereinafter provided. It shall be the duty of every occupant of property and the owner of unoccupied property to place any rubbish and/or garbage accumulated or stored outside of a dwelling or building of any premises in containers which shall be placed at the rear or side of buildings in a place which is reasonable inconspicuous and away from street and places occupied by other persons. Such containers, when used for the storage or accumulation of garbage or rubbish which is contaminated by garbage shall be constructed of nonabsorbent materials, shall be kept in a clean and sanitary condition and shall be covered. Such containers used for the accumulation and storage of rubbish shall be covered if there is a likelihood that rubbish will be carried therefrom by wind or other natural causes. Garbage and rubbish accumulated as aforesaid must be disposed of within a reasonable period of time in a manner not inconsistent with the provisions of this Ordinance.<sup>36</sup>

**Section 3.5 Abandoned or Inoperable Motor Vehicles and Appliances.** The owner and/or occupant of any occupied premises and the owner of any unoccupied premises shall not keep or permit to be kept on such premises dismantled, partially dismantled or inoperative motor vehicles or appliances unless the same shall be stored or placed in a wholly enclosed garage or other wholly enclosed structure. Provided, however, that the owner of such motor vehicles or appliances may store on the premises of which he is owner, co-owner, or tenant, any such vehicles that are properly licensed that are not deemed excessive in number. Provided further, that the occupant and/or owner of every occupied premises and the owner of unoccupied premises shall not leave in any place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an air tight door, or lock which may not be released or opened from the inside of said icebox or refrigerator or container unless the said lock or door has been removed therefrom.<sup>37</sup>

**Section 3.6 Duty of Owner, Lessee or Occupant.** It shall be the duty of any owner, lessee or occupant of any land within the Township to abate any nuisance existing on property located within the township under the owner's, lessee's or occupant's control. This includes, but is not limited to:

- a. The cessation of any activity creating a nuisance;
- b. The removal of all forbidden items as set forth above and the cutting and removing by lawful means all such brush, weeds, grass or other poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this ordinance.<sup>38</sup>

**Section 3.7 Township to Do Work.** If any owner, lessee or occupant of any land within the Township, fails to comply with the provisions of ordinance, the Township Board shall serve either personally, or by certified or regular mail, written notice upon the owner, lessee, or occupant or any person having the care or control of any such land to comply with the provisions of this Ordinance. If the person upon whom the notice is served fails to abate the nuisance within five (5) days after receipt of such notice, or if no owner can be found of such land, the Township Board shall cause the nuisance to be abated and the actual cost doing so shall be certified by the Township Board and shall become and be a lien upon the land where the nuisance was located and shall be assessed and collected in the same manner provided by law for collection of taxes.<sup>39</sup>

---

<sup>36</sup> Ord. No. 10, §4, adopted January 6, 2005

<sup>37</sup> Ord. No. 10, §5, adopted January 6, 2005

<sup>38</sup> Ord. No. 10, §6, adopted January 6, 2005

<sup>39</sup> Ord. No. 10, §7, adopted January 6, 2005

**Section 3.8 Penalty.** Any person, partnership, firm, association, or corporation found to be in violation of this Ordinance shall be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Any person, firm or corporation found in violation of this ordinance shall also be responsible for any cost incurred by the Township to enforce this ordinance, including court costs and attorneys' fees, as well as the cost of any and all personal injury, property damage, emergency response and restoration work caused by such violation. Each act of violation and every day upon which any such violation shall occur shall contribute a separate offense. The imposition of any fine or cost under this Ordinance shall not exempt the offender from compliance with the Ordinance.<sup>40</sup>

**Section 3.9 Enforceability or Mandatory Injunction.** As a cumulative remedy to Section 3.8 any person who violates any provision of this Ordinance or any rule or regulation adopted or issued in pursuance thereof, may be made a Party defendant in a lawsuit in any Court of competent jurisdiction; the Township of Sharon shall have the power, through its attorneys, to request that said Court issue a Mandatory Injunction compelling any person found to be in violation of this Ordinance to forthwith comply.<sup>41</sup>

---

<sup>40</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>41</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 4. NOISE ORDINANCE<sup>42</sup>**

**Section 4.1 Purpose.** This Noise Ordinance is enacted to protect, preserve and promote the health, safety, welfare, peace and repose of the citizens of Sharon Township through the reduction, control and prevention of unnecessary and excessive noise. It is the intent of this Ordinance to establish standards that will eliminate and reduce unnecessary and excessive community noises from motor vehicles and from properties in the township. These noises are physically harmful and otherwise detrimental to individuals and the community and interfere with the lawful enjoyment of one's property, the peaceful enjoyment of life, and/or the conduct of business.

**Section 4.2 Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

- a. "Commercial" shall mean a use of property for purposes other than residential or agricultural.
- b. "Costs" shall mean all expenses incurred by the township to enforce this Ordinance including, but not limited to, any amounts spent for equipment, testing, personnel, attorney fees, court costs, and all other expenses the township deems necessary to enforce this Ordinance.
- c. "dBA" shall mean the intensity of a sound expressed in decibels, as measured on a weighted network of a sound level meter, as specified by the American National Standards Institute.
- d. "Emergency work" shall mean any activity that is necessary to restore, preserve, protect or save a life or property from imminent danger, loss or harm.
- e. "Farm operation" shall mean the operation and management of a farm in connection with the commercial production, harvesting and storage of crops, livestock, and poultry produced for consumption.
- f. "Lawn and landscape maintenance" shall mean those actions necessary to keep grounds or landscapes neat, attractive, clean and healthy and includes, but is not limited to, lawn mowing, tree trimming, leaf blowing and planting.
- g. "Legal holiday" shall mean the following legal public holidays: New Year's Day (January 1); Easter Sunday, Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November); Christmas Eve Day (December 24); and Christmas Day (December 25).
- h. "Motor vehicle" shall mean any vehicle that is self-propelled (motorized), and can be used to transport or carry persons and/or property on roads or on off-road terrain, including, but not limited to, automobiles, trucks, semi-trucks, snowmobiles, motorcycles, go-carts, all-terrain vehicles, mopeds, dune buggies and off-road vehicles.
- i. "Person" shall mean every natural person, partnership, association, corporation, club or any other entity which may own, operate or control any property, vehicle, device or facility herein described.
- j. "Property line" shall mean the line that represents the legal limits of the property owned, leased or occupied by any person.

---

<sup>42</sup> Ord. No. 2017\_0814, adopted August 14, 2017

- k. "Residential" shall mean a legal use of property for temporary or permanent dwelling and/or agricultural purposes.
- l. "Sound level meter" shall mean a device used for measuring sound level in decibel units within the performance specifications of the American National Standards Institute.
- m. "Sport shooting range" shall mean an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**Section 4.3 General Prohibited Noise.**

- a. It shall be unlawful for any person or entity to make, maintain, continue or fail to extinguish any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of a person of common sensibilities and sensitivity within the limits of Sharon Township.
- b. It shall be unlawful for the owner of any premises, and for the occupant or person in possession of any premises within the Township of Sharon, whether individual, corporate or otherwise, to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of a person of common sensibilities and sensitivity within the limits of Sharon Township.

**Section 4.4 Sound beyond property line.**

- a. Except as provided in Section 4.9 of this Ordinance, the following activities shall be prohibited if they produce audible sound beyond the property line of the property on which they are conducted between the hours specified:
  - (1) The operation of power tools, equipment or machinery on properties adjacent to residential properties between the hours of 10:00 p.m. and 7:00 a.m.
  - (2) The sounding of any bell, chime, siren, whistle or similar device between the hours of 10:00 p.m. and 7:00 a.m.
  - (3) The operation or playing of any radio, television, phonograph, drum or musical instrument between the hours of 10:00 p.m. and 7:00 a.m.
  - (4) The operation or use of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds between the hours of 10:00 p.m. and 7:00 a.m.
- b. The prohibitions set forth in subsection (a) of this section shall be applicable even if the sound level produced by any such prohibited activity does not exceed the applicable level specified in section 4.5 of this Ordinance.

**Section 4.5 Maximum permissible sound levels from property located within the township.** It shall be unlawful for any person within the township to conduct or permit an activity that produces a dBA beyond the property line of the property on which the activity is conducted, measured from any point thereon, which exceeds the levels set forth in the following table. Where a property is used for both residential and commercial purposes, the residential sound levels shall be used.

<u>Use of Property Receiving the Sound</u>	<u>Maximum dBA between 7:00 a.m. to 10:00 p.m.</u>	<u>Maximum dBA between 10:00 p.m. to 7:00 a.m.</u>
Residential	71	61
Commercial	81	71

**Section 4.6 Mufflers and exhaust systems.** A person shall not operate a motor vehicle on a highway, street or property within Sharon Township if the vehicle has a defect in the exhaust system which affects sound reduction, is not equipped with a muffler or other noise dissipative device, or is equipped with a cutout, bypass, amplifier, or a similar device.

**Section 4.7 Maximum permissible sound levels from vehicles.**

- a. A person shall not operate on any highway or street within the township any motor vehicle that produces total sound exceeding the following limits when measured at a distance of 50 feet from the vehicle:

<u>Vehicle type/manufacturer’s gross vehicle weight rating</u>	<u>Maximum permissible sound levels in relation to posted speed limits</u>
8500 pounds or more	90 dBA where the maximum lawful speed is greater than 35 mph
8500 pounds or more	86 dBA where the maximum lawful speed is 35 mph or less
Less than 8500 pounds	82 dBA where the maximum lawful speed is greater than 35 mph
Less than 8500 pounds	76 dBA where the maximum lawful speed is 35 mph or less
Motorcycle/moped	86 dBA where the maximum lawful speed is greater than 35 mph
Motorcycle/moped	82 dBA where the maximum lawful speed is 35 mph or less

- b. No person operating or in control of a stopped or moving motor vehicle shall operate or permit the operation of a sound system in the vehicle so as to produce sound that is audible at a distance of fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 10:00 p.m., or audible at a distance of twenty-five (25) feet from the vehicle between the hours of 10:00 p.m. and 7:00 a.m.
- c. It shall be unlawful to operate any motor vehicle within the Township using exhaust brakes, engine brakes, compression release brakes, also known as Jake Brakes, or similar braking device, so as to produce sound that is clearly audible more than 50 feet from the vehicle.<sup>43</sup>

---

<sup>43</sup> Adopted on February 2, 2023.



**Section 4.8 General exemptions.** The following activities shall be exempt from the sound level limitations set forth in this Ordinance:

- a. Emergency work or responses, including emergency and utility vehicles, that are necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore utilities or to protect persons or property from imminent danger, loss or harm.
- b. Sound made to alert persons to the existence of an emergency, danger or suspected crime.
- c. Activities or operations of governmental units or agencies.
- d. Township sanctioned parades, concerts, festivals, fairs or similar activities, provided, such activities are conducted subject to any sound limitations established by the township in the granting of any permit for the approval of such activities.
- e. Construction, repair, remodeling, demolition, drilling, wood cutting, or excavation work conducted between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, which do not produce a sound level exceeding 86 dBA beyond the property line of the property on which the work is being conducted. This exemption shall not apply to such activities occurring at any time on Sundays and legal holidays, with the exception that a person may engage in such activities at his or her own residence between the hours of 7:00 a.m. and 9:00 p.m. on Sundays and legal holidays.
- f. Lawn and landscape maintenance activities, including but not limited to, lawn mowing, wood cutting, and leaf blowing, but only between the hours of 7:00 a.m. and 10:00 p.m.
- g. Farm operations and activities as defined in Section 4.2 of this ordinance.
- h. Sport shooting ranges, as defined in Section 4.2 of this Ordinance, but only between the hours of 7:00 a.m. and 10:00 p.m. and provided the range operates in compliance with generally accepted operation practices (the NRA Range Source Book, A Guide to Planning and Construction).

**Section 4.9 Variances.**

- a. The township may grant a variance from the maximum permissible sound levels established in this Ordinance, if such variance would be in the public interest and there is no feasible or prudent alternative to the activity, or the method of conducting the activity, for which the variance is sought.
- b. The following factors shall be considered by the township in determining whether to grant a variance:
  - (1) The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety, repose, peace and welfare of persons adversely affected or any other adverse effects of the granting of the variance.
  - (2) The nearness of any residences or any other use that would be adversely affected by sound in excess of the limits set forth in this section.
  - (3) The level of the sound to be generated by the event or activity.
  - (4) The density of population of the area in which the event or activity is to take place.

- (5) The time of day or night during which the activity or event will take place.
- (6) The nature of the sound to be produced, including, but not limited to, whether the sound will be steady, intermittent, impulsive or repetitive.

c. A variance must be in writing and signed by the township clerk following approval by the township board and shall set forth the name of the person to whom the variance is granted, the location of the property for which such variance is authorized, the dates and times in which such variance is effective and the maximum dBA levels authorized thereby.

**Section 4.10 Responsibility.** The owner, lessee, lessor, occupant and/or user of any property or vehicle from which sound emanates in violation of this Ordinance may each be held responsible for any violation of this Ordinance. The township shall, at its option, have the right to prosecute any such person for any violation of this Ordinance or may choose to prosecute all such persons.

**Section 4.11 Abatement; notice.**

- a. It shall be the duty of the township supervisor, or such person appointed by the supervisor and approved by the township board, to notify in writing any person responsible for creating or maintaining a sound violation, as stated in this Ordinance. The notice shall describe, in detail, the things, acts or uses that are deemed to constitute such violation and which are to be abated within a period of time not to exceed five days from the date the notice was placed in the mail or delivered to a person in possession of the property or vehicle from which a sound violation emanates. The notice shall also state that failure to comply with its terms in the time set forth in the notice shall constitute a violation of this Ordinance.
- b. Any person, business or entity violating any provision of this ordinance shall be cited through a notice to appear in district court. A notice to appear shall be issued only after a person, business or entity has received a notice in writing of a sound violation under subsection (a) of this section.

**Section 4.12 Enforcement; violations.** A violation of the provisions of this ordinance shall be a Municipal Civil Infraction and the associated fines and costs as described in Chapter 1, Article 3 - Sharon Township Municipal Civil Infraction Ordinance, Section 3.5 (e), Schedule of Civil Fines and Costs, shall be applicable and are so noted here:

1st violation within a 12-month period.....	\$100.00
2nd violation within a 12-month period.....	\$200.00
3rd violation within a 12-month period.....	\$400.00
All subsequent violations within a 12-month period.....	\$500.00

Each subsequent day the violation continues is considered a separate violation under the applicable section of this Ordinance and shall be subject to penalties or sanction as a separate offense. The issuance of subsequent violations is at the discretion of the authorized township official.

**Section 4.13 False Reports.**

- a. No person shall report any violation of this Noise Ordinance by telephone, in writing or by any other means of communication, to any Township officer or official, knowing that no such violation has in fact been committed or occurred and the report is false.
- b. A person violating subsection (a) of this section may be prosecuted and/or subject to injunctive action through the court.

# Chapter IV: Land Use Regulations

## Article 1. LAND DIVISION

**Section 1.1 Definitions.** For the purposes of this ordinance certain terms and words used herein shall have the following meaning:

- a. "Applicant" means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- b. "Designated Official" refers to a Person or Persons appointed by the Sharon Township Board.
- c. "Divide" or "Division" refers to the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of the building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Michigan Land Division Act. "Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Michigan Land Division Act, this ordinance, and other applicable ordinances.
- d. "Exempt split" or "exempt division" refers to the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular traffic and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- e. "Forty acres or the equivalent" means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- f. "Governing body" refers to the Sharon Township Board.<sup>44</sup>

**Section 1.2 Prior Approval Requirement for Land Divisions.** Land in the Township shall not be divided without the prior review and approval of the designated official, in accordance with this ordinance and the Michigan Land Division Act; provided that the following shall be exempted from this requirement:

- a. A parcel proposed for subdivision through a recorded plat pursuant to the Michigan Land Division Act and which complies with the minimum requirements of the zoning district therein located.

---

<sup>44</sup> Ord. No. 13, §3, adopted September 4, 1997

- b. A lot in a recorded plat proposed to be divided in accordance with the Michigan Land Division Act.
- c. An exempt split as defined in this ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the Michigan Land Division Act.<sup>45</sup>

**Section 1.3 Application for Land Division Approval.** An applicant shall file all of the following with the Township Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- a. A completed application form on such form as may be approved by the Township Board.
- b. Proof of fee ownership of the land proposed to be divided.
- c. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- d. Proof that all standards of the Michigan Land Division Act and this Ordinance have been met.
- e. The history and specifications of any previous land divisions of which the parcel to be divided was a part sufficient to establish that such parcel was lawfully in existence on March 31, 1997 or the earliest effective date of the Michigan Land Division Act, and that the number of divisions permitted under this Land Division Ordinance or the Michigan Land Division Act have not been exhausted.
- f. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- g. The fee as may from time to time be established by resolution of the governing body of the Township for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the Michigan Land Division Act.<sup>46</sup>

**Section 1.4 Procedure for Review of Applications for Land Division Approval.** The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Michigan Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

- a. Any person or entity aggrieved by the decision of the designated official may, within 30 days of said decision appeal the decision to the Sharon Township Zoning Board of Appeals which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant ( and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- b. The Zoning Board of Appeals shall obtain written reports from the designated official, and others who the Zoning Board of Appeals deems necessary to provide information relevant to

<sup>45</sup> Ord. No. 13, §4, adopted September 4, 1997

<sup>46</sup> Ord. No. 13, §3, adopted September 4, 1997

the appeal. The Zoning Board of Appeals shall review the decision and grant relief if it finds that the decision is arbitrary or capricious, an erroneous application of this Ordinance.

- c. An appeal shall only be granted if all the following standards are met:
  - (1) Special conditions and circumstances exist which are unique to the land, structures or buildings involved, and do not result from actions of the applicant;
  - (2) Literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other property owners under the terms of this Ordinance;
  - (3) Granting the appeal will not confer upon the applicant any special privilege that is denied by this ordinance to other lands;
  - (4) The existence of nonconforming parcels or uses of parcels, structures or building under the Township Zoning Ordinance or other regulatory ordinances shall not be considered grounds for the issuance of an appeal;
  - (5) An appeal granting a waiver or variance of the Ordinance shall be the minimum variance that will make possible a reasonable division of land in accordance with this Ordinance and would not compromise to the public interest.
- d. The designated official shall maintain an official record of all approved and accomplished land divisions or transfers.
- e. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- f. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.<sup>47</sup>

**Section 1.5 Standards for Approval of Land Divisions.** A proposed land division shall be approved if the following criteria are met:

- a. All parcels to be created by the proposed land division(s) fully comply with all applicable requirements of the Township Zoning Ordinance, including but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from such requirement(s) from the Township Zoning Board of Appeals.
- b. The proposed land division(s) comply with all requirements of the Michigan Land Division Act and this Ordinance.
- c. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles.
- d. Proof of approval by the Sharon Township Board for any public road that is to be constructed to provide access to any of the lots created by the proposed land division.

---

<sup>47</sup> Ord. No. 13, §6, adopted September 4, 1997

- e. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road of right-of-way line, or as otherwise provided in any applicable ordinances.<sup>48</sup>
- f. Easements serving more than one parcel must be at least 1000 feet apart. The Sharon Township Board may relax this requirement if the applicant can demonstrate that specific conditions unique to this property split would warrant further consideration.<sup>49</sup>

**Section 1.6 Consequences of Noncompliance with Land Division Approval Requirement.** Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged there for, together with any damages sustained by the purchaser, recoverable in an action at law.<sup>50</sup>

Any person, partnership, firm, association, or corporation found to be in violation of this Ordinance shall be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Any person, firm or corporation found in violation of this ordinance shall also be responsible for any cost incurred by the Township to enforce this ordinance, including court costs and attorneys' fees, as well as the cost of any and all other damages caused by such violation.<sup>51</sup>

---

<sup>48</sup> Ord. No. 13, §7, adopted September 4, 1997

<sup>49</sup> Amended January 5, 2006.

<sup>50</sup> Ord. No. 13, §8, adopted September 4, 1997

<sup>51</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 2. MINERAL EXTRACTION**

**Section 2.1 Findings.** The Township finds that mineral extraction operations can negatively affect the health, safety, and welfare of Township residents unless such operations are adequately regulated. Mineral extraction operations can pollute the environment, damage the water supplies, cause noise nuisances, dust nuisances, damage the roads and create conditions that are dangerous to Township residents. If unregulated, completed mineral extraction operations can leave land in a condition that is unsightly and presents an attractive nuisance. The Township has authority to regulate mineral extraction operations to protect public health, safety and welfare pursuant to Public Act No. 246 of 1945, being section 41.181 of the Michigan Compiled Laws.

- a. A Mineral License Board is established by this Ordinance to further the above purposes.
- b. The Mineral License Board shall be composed of the Township Supervisor and four members appointed for two-year terms by the Township Supervisor. The appointment of members 1 and 3 shall end on December 31, in odd numbered calendar years, and members 2 and 4 shall end on December 31, in even number years. The Township Supervisor shall not serve as chair of the Mineral License Board.<sup>52</sup>

**Section 2.2 License Required.** No person shall commence or continue a business activity involving mineral extraction from any property in the Township without first obtaining a mineral extraction license issued by the Mineral Extraction License Board pursuant to this ordinance. As a condition to filing an application under this Article, an applicant must first secure approval under Section 5.12 of the Township Zoning Ordinance; however, the applicant may seek approval from the Township Board to file an application under this Article during the course of the application and review process under Section 5.12 of the Zoning Ordinance with the understanding that the applicant assumes the risk of expending the time and resources pursuing approval under this Article prior to zoning approval.<sup>53</sup>

- a. For the purpose of this ordinance mineral extraction is defined as the mining, quarrying excavation or other removal or processing of sand, gravel, soil, or other minerals from the location of the mineral extraction site.
- b. For the purpose of this ordinance, processing at a minimum is defined as washing, sorting, crushing, aggregating, grinding or cutting.
- c. A mineral extraction license does not permit other uses including but not limited to on-site processing of material from off-site, asphalt, cement or other manufacturing operations of any nature unless the Mineral License Board shall specifically approve such other use by separate addendum to the mineral extraction license.<sup>54</sup>

**Section 2.3 Compliance with License.** No person who has been issued a license pursuant to this ordinance shall engage in activity contrary to the terms of the license or contrary to the terms of this ordinance.<sup>55</sup>

**Section 2.4 License Application.** A license shall only be issued based on an original signed application submitted to the Township Clerk together with four duplicates as stated below. Prior to submission of an Application, the Applicant shall attend a pre-application conference with Township

---

<sup>52</sup> Amended April 6, 2016

<sup>53</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>54</sup> Ord. No.14, §2, adopted December 4, 1997 and amended April 6, 2016

<sup>55</sup> Ord. No. 14, §3, adopted December 4, 1997

Officials and pay a pre-application fee, as determined by resolution of the Township Board. To be complete each application must contain the following:

- a. Names and full address of all parties having an interest in the land and/or an interest in the operation on the site. Evidence of such interest shall be provided along with any current partnership agreement, articles of incorporation or assumed name certificate. Written consent of the legal title holder is also required.
- b. The applicants' signature and date shall appear on the first page of the application original and on all duplicates submitted to the Township for review. In addition, each page of the complete application submittal shall include the original application date in the lower right-hand corner. If the application is subsequently amended, each replacement page shall bear, in the lower right-hand corner, the original application date and the date of the submittal of the page revision.<sup>56</sup>
- c. A full legal description and drawing of the site prepared by a surveyor registered in the State of Michigan. The drawing should be submitted showing the number of acres and located property irons on each portion of the site to be mined.<sup>57</sup>
- d. An aerial photo showing the property and adjacent areas within the 2,000 feet of the site and a map showing the property boundaries of all parcels within 500 feet of the site, including the name of the property owner and use of the site.
- e. Detailed drawings, prepared by a land surveyor or registered professional engineer, showing the following:
  - (1) Existing site improvements including buildings, drives, wells, and drain fields;
  - (2) Existing topography at contour levels of two (2) feet, interpolated from US Geological Survey (USGS) data, unless an interval of less than two (2) feet is deemed necessary for review by the Township Engineer at the Pre-Application Conference;
  - (3) Extent of future mining areas and depth thereof;
  - (4) Location and description of structures and stationary and/or portable equipment to be located on the site during mining operations;
  - (5) Location and description of soil types;
  - (6) Tree areas and other natural features to be preserved;
  - (7) Location and types of materials for visually screening the site;
  - (8) Location and dimensions of drives;
  - (9) Lane widening on public roads at intersections with drives;
  - (10) Locations of test wells for monitoring water quality;

---

<sup>56</sup> Amended April 6, 2016

<sup>57</sup> Amended April 6, 2016



- (11) Any other items as deemed necessary by the Township Engineer and/ or the Township Mineral License Board.<sup>58</sup>
- f. A complete description of proposed pollution and erosion control measures.
  - g. A map showing truck routes and/or private easements to the site and a letter of preliminary comments from the Road Commission(s) impacted by the truck routes.
  - h. The estimated average amount of gravel, sand, or other materials and the maximum amount of minerals, to be removed each year of the plan for mineral excavation, to be reported annually as a part of the annual permitting application. Evidence that a bond or security deposit has been supplied to the Washtenaw County Road Commission in an amount sufficient for maintaining the truck haul route during the term of the license until reclamation has been completed.<sup>59</sup>
  - i. The estimate average number of trucks per day, and the maximum number of trucks per day that are to haul minerals from the site each year of the plan.
  - j. A detailed reclamation plan showing that the entire property will be left in a form that is suitable for development with uses that are permitted in the district, relating such reuse to uses existing or probable for surrounding properties. The reclamation plan shall include the following elements:
    - (1) Proposed topography at contour intervals of two (2) feet for entire site;
    - (2) Schedule of progressive rehabilitation. After mining is completed on one specified area, quadrant, or cell, reclamation shall follow progressively in reasonable stages set forth in the plan before mining continues on other areas of the site;
    - (3) Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored area;
    - (4) Concept plan of the proposed use of the site when restored, drawn to scale, and prepared by a registered engineer, registered landscape architect, or registered architect. The Concept plan shall include the proposed circulation system, including location of internal roads and connection to the external road network, delineation of drainage patterns, identification of flood plains, and conceptual layout of lots (if residential is proposed). The use proposed in the Concept plan must be acceptable to the Mineral Licensing Board based on a review of the zoning district, Township Master Plan, surrounding land uses, and site characteristics. In addition, the applicant shall describe provisions for obtaining necessary permits and approvals for the future use(s). A landfill or other disposal or refuse site is not a suitable or satisfactory use;
    - (5) When the proposed future use, as deemed appropriate by the Mineral License Board, includes residential units or other uses requiring the use of septic fields, the Applicant shall provide a description of the construction and rehabilitation techniques that will be used to ensure that developable areas of the site have suitable soils to meet septic field standards established by the Washtenaw County Health Department. Also, provisions to supply the site with potable water for future uses shall also be described;

---

<sup>58</sup> Amended April 6, 2016

<sup>59</sup> Amended April 6, 2016

- (6) Details as to how compliance with the Restoration Standards in Section 2.9 will be met;
- (7) Description of methods and materials to be used in restoring the site;
- (8) The proposed date for completing all extraction operations and the date for completing final restoration;
- k. An irrevocable bank letter of credit in satisfactory form, in an amount sufficient to guarantee restoration of the site. In fixing the amount of such letter of credit, the mineral license board shall take into account the size and scope of the proposed excavation , probable cost of rehabilitating the premises upon default of the operator, recommendation of the Township Engineer, estimated expenses to compel operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.<sup>60</sup>
- l. Michigan State Fire Marshall and/or Michigan State Police permit for the on-site storage or transfer of fuels; or a written indication from the applicable agency that a permit is not required.
- m. A proposed liability insurance policy of not less than \$1,000,000 per incident for all liability claims arising out of the site.
- n. An application fee, in an amount established by resolution of the Township Board, shall be provided at the time of the application submittal.
- o. The first annual license fee, in an amount established by resolution of the Township Board, shall be provided at the time of application submittal and, if approved, subsequently by January 31st of each calendar year. The fee shall be held in escrow pending decision on granting the application.<sup>61</sup>
- p. A description of the proposed operation including whether it is for mining and/or processing; and specifications of whether the applicant will perform extraction methods in a manner that does or does not require artificial means to lower the existing groundwater table.
- q. Drawings, aerial photographs and plans submitted with an application shall be correlated by transparent overlays, combined maps or other means that clearly set forth site features and proposed features and requirements of this ordinance including setbacks.
- r. Copy of permit from the Michigan Department of Environmental Quality (MDEQ), or letter from the MDEQ showing that a permit is not required for the proposed mining or reclamation by the Natural Resources and Environmental Protection Act, including Inland Lakes and Streams, MCL 324.30101 - 30113, and Wetland Protection, MCL 324.30301 – 30329.<sup>62</sup>
- s. A hydrogeological analysis, prepared by a Professional Engineer or Certified Professional Geologist registered with the State of Michigan with experience in hydrogeological studies, shall be provided for all projects that propose a dewatering operation during any phase of the

---

<sup>60</sup> Amended April 6, 2016

<sup>61</sup> Amended April 6, 2016

<sup>62</sup> Amended April 6, 2016

mining development.<sup>63</sup> The analysis shall demonstrate that the proposed operation will have no significant impact to existing private water supply wells within the influence of the site dewatering operations. The hydrogeological report shall include the following:

- (1) Test pumping data at the site and analytical computations used to assess potential dewatering impacts.
- (2) A test well and computer model shall be used to determine the probable drawdown of the proposed dewatering. The hydrogeological report shall determine the direction and rate of flow of groundwater, the upgradient and down-gradient water quality, aquifer characteristics (when soil dewatering is planned), extent of dewatering influence, and impact on surrounding water supply wells. A minimum of three (3) monitor wells shall be installed according to the requirements of the Michigan Department of Environmental Quality. Locations of wells shall be approved by the Township Engineer.
- (3) Well logs of existing wells within 2000 feet of the site boundaries.
- (4) A written statement of the impact the proposed operation will have on private wells shall be provided, as well as a plan for mitigating measures in the event that existing wells are impacted by the dewatering operations.
- (5) Groundwater testing of each well shall be performed by an independent operator approved by the Township Mineral License Board prior to commencing extraction operations to establish background water quality levels. Annual test of each well shall be performed by an independent operator approved by the Township Mineral License Board and results shall be provided to the Township within 30 days of the anniversary of permit issuance. At a minimum, the ground water shall be tested for the following: Benzene, Ethylene, Xylene, Toluene (BETX), and Polynuclear Aromatic Hydrocarbons (PNA).<sup>64</sup>
- (6) A description of the discharge rate and discharge location(s) of the dewatering operation, including an assessment of the potential for flooding in the area and downstream from the point of the discharge.

In the event that no dewatering is proposed, the applicant shall provide sufficient data to establish the direction of groundwater movement in the area. A minimum of three (3) monitor wells shall be installed according to the 3-point method, retained for future monitoring, and constructed according to the requirements of the Michigan Department of Environmental Quality. Locations of wells shall be approved by the Township Engineer. In addition, the Applicant shall supply well logs of existing wells within 2,000 feet of the site boundaries. Groundwater testing shall be performed in accordance with Section 2.4 t. (5) above.<sup>65</sup>

- t. Four duplicate copies of all of the above except the application fee, and the first annual license fee. One duplicate is for the Township Engineer for his review and report, one duplicate is the records of the Mineral Licensing Board; one duplicate is for the Mineral License Board to attach to the Applicant's License, if approved; and the final copy is to

---

<sup>63</sup> Amended April 6, 2016

<sup>64</sup> Amended April 6, 2016

<sup>65</sup> Amended April 6, 2016

attach to the Township's copy of the License, if approved. The original is maintained in the Township Clerks records.

**Section 2.5 Review of Application by Mineral License Board.** Once a complete application is submitted and deemed complete by the Mineral License Board, the Mineral License Board shall, within 90 days:<sup>66</sup>

- a. Approve a license based on the following findings;
  - (1) The applicant can comply with this ordinance;
  - (2) The operation will not adversely affect the health, safety, and welfare, of the residents of the Township;
  - (3) The site will be restored so it is safe and harmonious with surrounding land uses;
  - (4) The necessary fees, evidence of letter of credit, and evidence of insurance have been submitted;<sup>67</sup>
  - (5) The proposed operation will not adversely affect the water table or water quality or supply of any surrounding land;
  - (6) The use proposed in the reclamation plan is acceptable, based upon a review of the Township Zoning Ordinance, Township Master Plan, surrounding land uses and site characteristics
- b. Disapprove the license based on one or more of the following findings that the applicant has failed to demonstrate that:
  - (1) The applicant can or will comply with this ordinance; or
  - (2) The operation will not adversely affect the health, safety, and welfare of the residents of the Township; or
  - (3) The site will be restored so it is safe and harmonious with the surrounding land uses; or
  - (4) The proposed operation will not adversely affect the water table or water quality or supply of any surrounding land; or
  - (5) The use proposed in the reclamation plan is acceptable to the Mineral License Board, based upon the Board's review of the Township Zoning Ordinance, Township Master Plan, surrounding land uses and site clearances.
- c. Conditionally disapprove the license until the applicant submits revised document(s) providing that the license should be approved.
- d. Extend the period of review for an additional 30 days based on a written determination that additional review is needed.

---

<sup>66</sup> Amended April 6, 2016

<sup>67</sup> Amended April 6, 2016

**Section 2.6 Issuance of License.** If a license is approved, the Mineral License Board shall issue the license in duplicate upon receipt of the irrevocable letter of credit, and proof of insurance. One duplicate original will be provided to the applicant, and the other will be maintained by the Township Clerk.<sup>68</sup>

**Section 2.7 Form of License.** The license shall be prepared in duplicate originals and signed by the Township Supervisor and Township Clerk, after a majority vote <sup>69</sup>of the Mineral License Board, and contain the following:

- a. A full description of the operation permitted by the license based on approved plans and drawing;
- b. A full description of the restored site based on the approved plans and drawings;
- c. Dates for the completion of the operations and the completion of restoration;
- d. The dates for which the permit is valid based on the continual restoration schedule approved by the Board;
- e. Signed commitments for compliance with the ordinance and the license by all parties having an interest in the land and the operation; and that the license will reimburse all legal, engineer and investigation costs incurred by the township in establishing any violations;
- f. That Township agents, representatives' independent contractors and engineers are authorized to enter upon the property at any time for the purpose of inspection and may extract from the property such small samples of water, soil and other materials as may be necessary to assure compliance;
- g. That it remains subject to required annual inspections by the Township Engineer and/or other agents of the Township and payment of annual license fees; and reimbursement of the Township Engineer's fees for monitoring to determine compliance with the license;
- h. All required attachments to the application.

**Section 2.8 Compliance by Licensee.** All persons or firms engaged in the activity of mineral extraction shall comply with, and the continuation of the Mineral Extraction License shall be conditional upon,<sup>70</sup> the following:

- a. Operate only with a license issued under this ordinance.
- b. Make payment to the Township Clerk by the end of January Each Calendar Year, of the annual permit fee established by resolution of the Township Board, to be held in escrow pending satisfactory results of the Township's annual inspection.
- c. Operate only in compliance with the terms and limits of the license and approved application.<sup>71</sup>
- d. Operate only between 7:00 a.m. and 6:00 p.m. Monday through Saturday. No operations shall be permitted on Sundays or legal holidays.

---

<sup>68</sup> Amended April 6, 2016

<sup>69</sup> Amended April 6, 2016

<sup>70</sup> Amended April 6, 2016

<sup>71</sup> Amended April 6, 2016

- e. Other than as specified in the application and license, no processing of any nature, shall be conducted at any time on site.
- f. All fixed machinery and equipment and buildings shall be located at least 250 feet from any lot line and 500 feet from any existing residence. The Mineral License Board may approve the continued maintenance and use of facilities within the prescribed setback if they were installed and used at the proposed location prior to December 4, 1997.
- g. No extraction, processing, loading, weighing, stockpiling or other operations or equipment storage or repair shall take place closer than 250 feet from any road right of way, 500 feet from a residence or 250 feet from any other property boundary, whichever is farther.
- h. There shall be no excavation unless there is adequate lateral support for adjoining land as determined by the Township Engineer.
- i. Stockpiles of soil to be used for the reclamation shall be seeded or otherwise maintained to avoid erosion.
- j. Grading shall be maintained so that a drainage nuisance is not caused on adjacent property.
- k. Operations shall be conducted so the noise from the site when measured outside its legal boundaries does not exceed 70 decibels ("a" scale) for a period longer than a minute. Equipment shall be installed, used and maintained so that noise and vibration emitted from the site do not exceed the level reasonably necessary for the operation of the equipment.
- l. The operation shall be conducted so it will not cause any contamination or change in the quality of ground or surface water outside the site. The quality of ground water shall be monitored by adequate test wells as determined by the Township.
- m. There shall be no excavation within 500 feet of any stream or waterway unless approved in writing by the Michigan Department of Environmental Quality.<sup>72</sup>
- n. There shall be not more than one entrance way from a public road for each 660 feet of front lot line.
- o. Each entranceway shall be located not less than 500 feet from an intersection of two or more public roads.
- p. The site including ingress and egress shall be treated and maintained so that dust does not blow onto neighboring properties.
- q. Berms, fences and landscaping shall be installed at all locations around the site which lack natural screening. The screening shall consist of one or any combination of the following:
  - (1) Earth berms constructed to a height of 6 feet above the mean elevation of the centerline of the adjacent highway or 6 feet above the general level of the terrain along the interior property lines, whichever is higher. Such berms shall have slopes that are not in excess of 1 foot vertical to 3 feet horizontal and shall be planted with grass, trees or shrubs.

---

<sup>72</sup> Amended April 6, 2016

- (2) Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of the planting and which grow to not less than 6 feet in height at maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.
- (3) Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.
- r. Where an excavation leaves standing water with a depth of greater than 4 feet, the applicant shall erect a fence completely surrounding the portion of the site where the body of water extends, said fence to be not less than six (6) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on.
- s. Where quarrying operations result in a body of water, the owner or operator shall place appropriate "Keep-Out-Danger" signs around said premises not more than two hundred (200) feet apart.
- t. All portions of the site not currently being mined (without mining activity for ninety days) shall be graded so that slopes are not steeper than one (1) foot vertical for each two (2) feet horizontal and shall be adequately covered and planted to prevent erosion.
- u. All fuels, chemicals and other hazardous materials to be contained on site shall be noted in the application, including material, quality, use, and method of primary and secondary containment. All containment structures or devices shall be designed and operated to prevent groundwater pollution. The applicant shall also provide a written spill response plan, in the event that a hazardous materials spill occurs on site. Said plan shall indicate how any and all contaminated material will be collected and disposed.
- v. Washtenaw County Health Department Community Right-to-Know Regulation of 1986 evidenced by copies of documentation and notices produced pursuant to said Act.
- w. Only equipment or vehicles owned or leased by the operator shall be stored on the site overnight.
- x. The truck and trailer license plates shall be washed or wiped clean before leaving the site on each trip.
- y. Materials will only be loaded onto trucks reaching and leaving the site on truck routes specified on the license.
- z. Be responsible for adequately treating against dust and improving and maintaining to Washtenaw County Road Commission standards the public roads. Bridges and culverts directly servicing the site; as necessitated by the truck traffic over the haul route to or from the site. Any roads used for the purpose of ingress and egress to said excavation site which are located within three hundred (300) feet of occupied residences shall be kept free by hard topping with cement, bituminous substance or chemical treatment.
- aa. Maintain a record or copy of the load ticket for each truck departing with extracted minerals from the site. These records must include driver and truck/trailer identification, date, time, and load; and must be made available to the Township upon demand for inspection and copying.

- bb. Potable water supply and sanitary sewage disposal systems shall be approved for the site by the County Health Department.
- cc. No material from outside the site shall be brought in for processing or storage.
- dd. The operators must maintain the liability insurance approved with the license and annually provide proof of that insurance to the Township.
- ee. No explosives shall be used on the site.
- ff. Compliance with the Nuisance and Junk Ordinance, found in Chapter 2, Article 8<sup>73</sup>

**Section 2.9 Reclamation.** Reclamation in accordance with the following restoration standards must begin as soon as the mining of any area of the site is completed or mined to the limits shown on the application (whichever comes first);

- a. The reclamation shall be in accordance with the license and application.<sup>74</sup>
- b. Ponding shall be avoided in all areas except in designated lake areas. This shall be accomplished by all excavation being either to a water-producing depth or shall be graded or backfilled to ensure that the excavated area will not retain or collect stagnant water. For the purposes of this subsection, a water-producing depth shall be defined as not less than ten (10) feet below the average summer level of water in the excavation.
- c. In the event filling of the mined area is necessary in the course of reclamation, the fill material shall consist only of soil material, which is brought into the site in compliance with the following:
  - (1) A detailed statement indicating the quantities of material to be disposed of, and the exact locations from which the material will be brought.
  - (2) A report specifying in detail the testing to be undertaken by the applicant at each source location to ensure that the material being brought on site is not contaminated. The report shall include an opinion by a qualified independent soil scientist, soils engineer, hydrogeologist or geologist, confirming that the material from each source location is not contaminated.
  - (3) Set forth in detail the arrangement and nature of all operations, including the quantity of each type of material to be brought on site and the location from which it will be brought.
  - (4) Set forth a detailed explanation as to the routing of all vehicles bringing material to the site, and their size, weight and frequency of trips.
  - (5) Set forth in detail the precautions taken to ensure against any soil erosion or sedimentation control problems.
  - (6) Set forth in detail the contingency cleanup procedures to be utilized in the event of any contamination of the underlying groundwater or surface water.

---

<sup>73</sup> Amended April 6, 2016

<sup>74</sup> Amended April 6, 2016



- d. In general, grades of areas which are not permanently submerged will be gently rolling to minimize soil erosion and shall be blended into existing grades in a harmonious manner, No unsubmerged grade shall exceed one (1) foot vertical to four (4) feet horizontal, unless an unmodified area remains on site that has a natural grade in excess of 1:4 and the Mineral License Board finds that modification of this area is not necessary. In addition to the above, the reclamation plan shall show an internal future development area of 200 feet from the site property lines. Within this area, site grades shall be reduced to a sufficient slope to support an internal road on residential lots fronting on at least one side of the road, This area may be reduced to 100 feet where the Mineral License Board finds that residential development is not feasible future land use for the site and the use proposed does not require a 200 foot area with less steep grades. Grades of all areas that are permanently submerged shall not exceed one (1) foot vertical to five (5) feet horizontal from the shore to the depth of five (5) feet below the annual low water elevation, Notwithstanding the above, the maximum depth shall not exceed fifty (50) feet.
- e. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, roads or other structures. The depth of topsoil over the entire site shall be sufficient to allow sod to grow.
- f. Vegetation shall be restored by the appropriate seeding of grasses and the planting of trees and shrubs to establish a permanent vegetative cover on the land surface, to minimize erosion, and ensure long term stability of any sloped areas.
- g. Reclamation must be completed within 12 months of cessation of mining operations. All plant structures, buildings, stockpiles and equipment shall be removed; provided, however, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which the property is located may be retained. No further mining shall be permitted on a site when an area within the site subject to reclamation has not been restored within this time limit.

As part of the reclamation process, all site debris including tree stumps, man-made materials, etc. shall be removed from the site and properly disposed.

**Section 2.10 Revocation/Suspension.** The Township Supervisor, in the case of a violation of this ordinance that threatens the health, safety or welfare, may temporarily suspend the active work at a site licensed under this ordinance for up to 30 days; however, a licensee may request an expedited hearing before the Mineral License Board to contest the suspension, but the Supervisor may require active work to cease pending the hearing if there is a public health or safety issue at stake. A license under this ordinance may be revoked after a warning, notice and a hearing before the Mineral License Board which has the authority to permanently revoke the license or temporarily suspend it where conditions are found to exist which indicate the licensee is operating in serious violation of the terms of its license, or this ordinance, or in a manner adversely affecting the health, safety, or welfare of the residents of the Township in a serious manner<sup>75</sup>.

**Section 2.11 Appeal.** Any applicant or affected property owner may appeal a decision of the Mineral License Board under this ordinance.

- a. An appeal shall be decided by the Township Board after adequate notice, and a public hearing.

---

75

- b. Based on facts presented at an appeal, the Township Board may make findings redetermining compliance with Section 2.5 of this Ordinance and remand the application to the Mineral License Board for granting of the license or other final disposition of license, extend time limits of this ordinance, and restore a revoked license.

**Section 2.12 Exemptions.** This ordinance shall not apply to the following:

- a. Operations that involve the removal of 100 cubic yards of less of material per year.
- b. Usual and customary excavation associated with the construction of structures or septic tanks/fields under a permit from the Township and/or County.
- c. The usual and customary balancing of land by cutting and filling on a site in preparation for a development approved by the Township in accordance with all Township ordinances and regulations. This exemption shall not permit the removal of more than 100 cubic yards of material from the site.
- d. Usual and customary excavation of land in the public right-of-way, when associated with a public utility or public facility improvement.
- e. Ponds constructed in accordance with applicable provisions of the Zoning Ordinance.<sup>76</sup>

**Section 2.13 Violations.**

- a. **Penalties.** Any person, partnership, firm, association, or corporation found to be in violation of this Ordinance shall be responsible for a civil infraction for which the court may impose a civil fine of not less than \$500.00 nor no more than \$10,000 per day of violation. Each day that a violation remains shall constitute a separate violation of this Ordinance. Any person, firm or corporation found in violation of this ordinance shall also be responsible for any cost incurred by the Township to enforce this ordinance, including court costs and attorneys' fees, as well as the cost of any and all personal injury, property damage, emergency response and restoration work caused by such violation<sup>77</sup>.
- b. **Separate offense.** The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense. The imposition of any penalty shall not exempt the violator from compliance with the provisions of this ordinance. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.<sup>78</sup>
- c. **Additional Remedies.** The township may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies provided in this ordinance are cumulative and are in addition to all other remedies provided by law.<sup>79</sup>
- d. An official designated by the Township Board shall be responsible for investigating violations of Ordinance, distributing notices of violations, and other related administrative functions.<sup>80</sup>

---

<sup>76</sup> Ord. No. 14, §12, adopted December 4, 1997

<sup>77</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>78</sup> Amended April 6, 2016

<sup>79</sup> Amended April 6, 2016

<sup>80</sup> Amended April 6, 2016

- e. Notwithstanding any provisions to the contrary, after a written violation notice from township officer, employee or agent with authority that work on any property within the township should be stopped because it is being done in violation of a provision of these ordinances, a stop work order may be issued immediately when there is an imminent danger to persons, property or the environment from the violation. In other situations, a stop work order may be issued if the property owner or such owner's agent does not appear at the township as specified in the notice and show or demonstrate good cause why it should not be issued. The notice shall allow at least one (1) full township business day for the appearance. If a stop work order is issued, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. and posted upon the property in a manner which will be in plain view of any person doing work upon the property. The stop work order shall state the scope of the stop work order and state the conditions under which work may be resumed.

Any person who shall perform any work on or about the property after having been served with a stop work order or otherwise having notice of the stop work order, except such work as that person is directed by the township to perform to remove a violation or unsafe condition, shall be responsible for a civil infraction for which the court may impose a civil fine of not less than \$500.00 nor no more than \$10,000 per day of violation. Each day that a violation remains shall constitute a separate violation of this Ordinance. Any person, firm or corporation found in violation of this ordinance shall also be responsible for any cost incurred by the Township to enforce this ordinance, including court costs and attorneys' fees, as well as the cost of any and all personal injury, property damage, emergency response and restoration work caused by such violation. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.

Any person who shall remove a posted stop work order notice placed upon any premises shall be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance<sup>81</sup>

#### **Section 2.14 Effective Date.**

- a. This ordinance shall take effect 30 days after the date of publication of the notice of adoption. Beginning with that date all persons or forms wishing to commence mineral extraction operations must comply with the ordinance.
- b. Owners and operators of all extraction operations existing prior to the effective date of this ordinance must apply for the required license within 90 days of the effective date and must be in compliance with all provisions of this ordinance within 180 days of the effective date of this ordinance.<sup>82</sup>

**Section 2.15 Severability.** It is the intention that if any portion of this ordinance is found, for any reason, to be invalid, the remainder of the ordinance shall remain in effect.<sup>83</sup>

**Section 2.16 Variances.** When there are practical difficulties in the way of carrying out the strict letter of this ordinance, the Township Board shall have the power to vary or modify the application of the provisions of this ordinance, in accordance with this section, so that the intent and purpose of the ordinance shall be observed, public safety secured, and substantial justice done.<sup>84</sup>

<sup>81</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>82</sup> Ord. No. 14, §14, adopted December 4, 1997

<sup>83</sup> Ord. No. 14, §15, adopted December 4, 1997

<sup>84</sup> Amended February 4, 2021. Effective February 18, 2021.

Any applicant may apply for a variance from any provision of the ordinance by filing an application for variance with the Township Clerk and paying a variance application review fee. The Township shall hold a public hearing upon such application with-in forty-five (45) days from its filing. The Township Clerk shall give notice of the hearing to the owners of all property within three hundred (300) feet of the subject property. The notice shall be mailed to each such party by first class mail or hand delivered and shall be published in a newspaper of general circulation in the Township not later than seven (7) days prior to the hearing. The Township Board may attach reasonable conditions in granting the variance from any provision of the ordinance to ensure that the standards and intent of the ordinance are met. Violation of conditions shall be considered a violation of the Ordinance and shall be subject to the penalties stated in Section 2.13.<sup>85</sup>

**Section 2.17 Relationship to Other Laws.** Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulators or restrictions imposed by this or any other governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive, or which impose higher standards or requirements shall govern. However, wherever there is a conflict in determining which is the more restrictive or imposes the higher standard, the standards of this regulatory ordinance shall govern. Regardless of any other provision of this Ordinance, no land shall be used, and no structure erected or maintained in violation of any state or federal control or environmental protection law or regulation.<sup>86</sup>

---

<sup>85</sup> Ord. No. 14, §16, adopted December 4, 1997

<sup>86</sup> Ord. No. 14, §17, adopted December 4, 1997

**Article 3. TELECOMMUNICATIONS**

**Section 3.1 Purpose.** The purpose of this ordinance is to regulate the access to and ongoing use or Public Rights-of-Way by Telecommunications Providers to ensure and protect the public health, safety, and welfare and to exercise reasonable control of the Public Rights-of-Way pursuant to the Michigan Telecommunications Act (Act No. 216 of the Public Acts of 1995, as amended, being MCL 484.2101 et seq.), other State statutes (including, without limitation, MCL 247.183), and Article VII, § 29 of the 1963 Michigan Constitution by (1) minimizing disruption of the Public Rights-of-Way by regulating the access to and ongoing use of the Public Rights-of-Way by Telecommunications Providers and the construction, installation, operation, and use, of facilities in the Public Rights-of-Way to provide Telecommunication Services, (2) ensuring that the Township and the public are protected from liability for use of the Public Rights-of-Way by Telecommunication Providers, (3) providing for the payment of nondiscriminatory permit fees which do not exceed the fixed and variable costs of granting permits and maintaining the rights-of-way used by Telecommunications Providers, and (4) assisting Telecommunications Providers in understanding the Township's requirements for use of the Public Rights-of-Way and providing a fair and non-discriminatory policy for permitting the use of the Public Rights-of-Way by such providers.<sup>24</sup>

**Section 3.2 Reservation of Rights.** The issuance of a Permit or Permits under this Ordinance and the access to and use of the Public Rights-of-Way by a Telecommunications Provider shall not constitute a waiver of or otherwise adversely affect the following reserved rights.

- a. **Right to Require Franchise.** Article VII, §29 of the 1963 Michigan Constitution requires that all public utilities obtain a franchise to conduct a local business within the Township. The applicability of this requirement to Telecommunications providers may be challenged under Section 102(dd) of the Michigan Telecommunications Act which purports to define telecommunications services as not constituting public utility services. Due to this and other legal and regulatory issues, and to avoid the expense and delay of litigation that may be unnecessary, the Township hereby determines that Telecommunications Providers shall not be required at this time to obtain franchises for the transaction of local business within the Township. Telecommunications Providers shall be required to obtain and maintain a Permit for access to and ongoing use of the Public Rights-of-Way and to otherwise comply with the terms of this Ordinance. Such a Permit shall not constitute a franchise. The Township reserves the right to require Telecommunications Providers to obtain a franchise in the future to transact local business within the Township. The Permittee shall not provide cable television service without obtaining a franchise from the Township.
- b. **Rights Regarding Takings Claim.** Certain cable or Telecommunications Providers have initiated or supported legal proceedings in which they contend that federal law grants them the right to physically occupy the rights-of-way and other property of a municipality for the purpose of providing telecommunications service without compensating the municipality for the use or value of the property so occupied or the cost of acquiring and maintaining such property. Municipalities, including the Township dispute that claim. The Township believes that if such a claim were sustained it would, among other things, constitute an unlawful taking by the United States in violation of the Fifth Amendment of the United States Constitution. The legal issues involved in such disputes have not been finally decided. The Township desires to act on applications for Permits granting access to its Public Rights-of-Way at this time rather than wait for determination of these issues, provided this can be done without waiver or loss of any rights of the Township or a Permittee. Therefore, notwithstanding any other provision hereof, a Permittee is not precluded by this Ordinance from seeking relief from the fee provisions of Section 3.7 from any court or agency of competent jurisdiction. If a Permittee seeks such relief the Township reserves the right to assert a takings claim and to take all action it deems necessary in support thereof. Neither this Ordinance nor the issuance

or acceptance of a Permit hereunder constitutes or will be claimed to constitute a waiver or relinquishment of any rights or defenses of either the Township or the Permittee in connection with these disputed issues, and the acceptance of a Permit constitutes an acknowledgment and agreement thereto by the Permittee.<sup>87</sup>

**Section 3.3 Existing Maintenance Permits.** Annual maintenance permits issued to a Telecommunications Provider shall not be renewed upon expiration. Upon expiration of the annual maintenance permit, Telecommunications Providers shall be required to comply with all terms and conditions of this Ordinance as it may be amended from time to time.<sup>88</sup>

**Section 3.4 Terms Defined.** The meaning of the terms used in this Ordinance shall be as follows:

- a. "Affiliate" and "Affiliated" means any Controlling entity that is owned or Controlled by or is under common ownership or common Control with a Permittee.
- b. "Township" means the Township of Sharon.
- c. "Township Board" means the Township Board of the Township of Sharon or its designee. This subsection does not authorize delegation of any decision or function that is required by law to be made by the Township Board. In any case in which a hearing is held pursuant to this Ordinance, the Township Board may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the Board or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.
- d. "Township Clerk" means the Township Clerk or his or her designee.
- e. "Control," "Controlling," and "Controlled" mean effective control by whatever means exercised, such as those, described in Report and Order and Further Notice of Proposed Rule Making in MM Docket 92-264, 8 FCC Red 6828 (1993) at paragraphs 22-28 (adopting broadcast transfer of control standards as then in effect).
- f. "Local Exchange Service" means the provision of an access line and usage within a local calling area for the transmission of high quality two-way interactive switched voice or data communication.
- g. "Permit" means a non-exclusive permit issued pursuant to this Ordinance for access to and ongoing use of Public Rights-of-Way by Telecommunications Providers for wires, poles, pipes, conduits, or other facilities designed or used to provide, Telecommunications Services. The term "Permit" does not include any other permits, licenses, or approvals required by the Township or other governmental entities.
- h. "Permittee." means a Telecommunications Provider which has been issued a Permit pursuant to this Ordinance.
- i. "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- j. "Public Rights-of-Way" means the surface and space above, on and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel park, parkway, waterway, dock, bulkhead, wharf, pier, public, easement, right-of-way or, any other

<sup>87</sup> Ord. No. 15, §3, adopted April 6, 2001

<sup>88</sup> Ord. No. 15, §4, adopted April 6, 2001

- public ground or water within or in which the Township now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating and maintaining a telecommunications facility. No reference herein or in any franchise agreement to a public right-of-way shall be deemed to be a representation or warranty by the Township that its interest or, other right to control the use of such property is sufficient to permit its use for such purposes and the Franchisee, Licensee or Permittee shall be deemed to acquire only those rights of a user of property in the Township and only as the Township may have the undisputed right and power to give.
- k. "Reseller" refers to a person that provides one or more telecommunications services for hire, which are carried in whole or in part by means of the services of one or more other providers or over one or more telecommunications facilities in the public rights-of-way in which that person lacks a present possessor interest.
  - l. "Telecommunications Act" means Act No. 216 of the Public Acts of the State of Michigan of 1995, as amended from time to time.
  - m. "Telecommunications Facility" means that part of a tangible facility that occupies the public rights-of-way and is used to provide one or more telecommunications services or to transmit telecommunications signals. The term "telecommunications facility" includes any and all facilities used to transmit or carry telecommunications signals.
  - n. "Telecommunications Provider" means a person who provides one or more Telecommunications Services for compensation.
  - o. "Telecommunications Services" means regulated and unregulated services offered to customers for the transmission of two-way, interactive communication and associated usage, including transmission by, optical fiber, coaxial cable or any other bounded, tangible means of information in electronic or optical form including, but not limited to voice, video or data. This includes telephone service but does not include over-the-air broadcasts to the public at large licensed by the Federal Communications Commission. "Telecommunications Services" does not include one-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services for which has been obtained or must be obtained from a cable television franchise the Township.
  - p. "Telecommunications System" means facilities designed or used to provide Telecommunications Services. Such facilities are tangible, bounded devices over or through which communications are transmitted, or which control or process transmissions of communications.<sup>89</sup>

**Section 3.5 Permits.** Permit Required. No Person shall use the Public Rights-of-Way to provide Telecommunications Services without a Permit issued pursuant to this Ordinance. For purposes of this Ordinance, use of the Public-of-Way includes the installation, construction, maintenance, repair, or operation of a Telecommunications System within the Public Rights-of-Way. In addition, a Person providing Local Exchange Service or other local Telecommunications Services is using the Public Rights-of-Way for purposes of this Ordinance whether such Person owns the facilities in the Public Rights-of-Way outright or obtains the use of or access to the facilities from a third party under lease, contract, interconnection, or wholes, or retail or other similar arrangement, or acts as a Reseller of

---

<sup>89</sup> Ord. No. 15, §5, adopted April 6, 2001

Telecommunications Services. Failure to comply with the Permit requirement of this Section shall constitute a violation of this Ordinance. A Person who violates this requirement shall comply with all requirements of this Ordinance applicable to a Permittee and shall pay the annual fee plus late payment charges as provided by Section 3.7 for the time period in, which the violator did not have a Permit plus the actual costs incurred by the Township in enforcing this Ordinance against the Person.<sup>90</sup>

### **Section 3.6 Permit Application Procedures.**

- a. **Application.** A Telecommunications Provider shall apply for a Permit pursuant to this Ordinance. The application shall be made on an application form provided by the Township. Fourteen (14) copies of the application shall be filed with the Township Clerk, and two (2) additional copies each shall simultaneously be filed with the Township Attorney.
- b. **Required Information.** In addition to other information required by the application form or otherwise required by the Township or this Ordinance, the application shall include, without limitation, the following information:
  - (1) The name and address of the applicant and each Person exercising Control over the applicant, and if the applicant or any Person or Persons exercising Control is not a natural Person, each of its officers, directors, stockholders beneficially holding more than 5% of the outstanding voting shares, general partners, and limited partners holding an equity interest of more than 5%.
  - (2) Copies of the most recent financial statements of the applicant.
  - (3) A description of (i) the applicant's existing and proposed Telecommunications System and Telecommunications Services in the Township, (ii) the types of existing and proposed wires and other facilities in the Public Rights-of-Way, and (iii) a statement whether such facilities are owned by the applicant, or if not owned by the applicant, a copy of the agreement or legal instrument granting the applicant the right to the use of or access to such facilities.
  - (4) A map setting forth the specific location of the facilities in the Public Rights-of-Way. The map shall identify the location of above ground and underground facilities. The map shall be a detailed plan of the proposed work with the locations of all underground and overhead utilities prepared and sealed by a Registered Land Surveyor or Registered Professional Engineer. Additional information to include maintenance of traffic shall be included. Said plans shall be on 24" x 36" bond paper and be accompanied by a computer diskette or compact disc of the drawing in AutoCAD format compatible with the Township's geographic information system. All plans shall be submitted to the Township Supervisor for review.
- c. **Application Fee and Escrow Deposit.** The application will be accompanied by a non-refundable application fee in an amount established by resolution of the Township Board. The non-refundable application fee shall be designed to reimburse the Township for the costs of reviewing an application for a Permit and issuance of a Permit in accordance with the procedures of this Ordinance. The applicant shall also submit an escrow deposit in an amount established by Township Board resolution, to pay for the Township's costs for outside consultants to review the application including legal, engineering, accounting, planning and other consultants. Any amount remaining in the escrow deposit after the Township's consultant bills have been paid shall be returned to the applicant.

---

<sup>90</sup> Ord. No. 15, §6, adopted April 6, 2001



- d. **Administrative Completeness.** An application shall not be deemed to be filed for purposes of the 90-day permit application review period in Section 251(3) of the Telecommunications Act unless and until the application is determined by the Township Clerk to be administratively complete. A determination whether the application is administratively complete shall be made by the Township Clerk within thirty (30) days after the application is received by the Township. If the Township Clerk determines that the application is not administratively complete, the Township Clerk shall so advise the applicant in writing and shall identify the items which must be furnished by the applicant for an administratively complete application.
- e. **Additional Information.** The Township Clerk may request an applicant to submit such additional information that the Township Clerk deems reasonably necessary or relevant to review the application. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Township Clerk. If the applicant fails to provide the requested additional information by the deadline established by the Township Clerk, the 90-day period for acting on the application under Subsection 3.6.g. below shall be extended by the number of days after the deadline that the information was provided to the Township Clerk.
- f. **Misleading Statements.** A Person who provides information to the Township in connection with a Permit application or any other matters under this Section 3.6 that contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall be in violation of this Ordinance, and shall be subject to all remedies for violation, of this Ordinance and the Township Code including, without limitation, denial of the requested action and Permit revocation pursuant to Section 3.15. Each day that a Person fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this Ordinance.
- g. **Permit Approval or Denial.** Within forty-five (45) days after the Township Clerk determines that the application is administratively complete (subject to any adjustments for delays in providing additional information as provided in Subsection 3.7.e. above), the Township Board shall hold a public hearing on the application. Notice of the public hearing shall be published in a newspaper in general circulation not less than ten (10) days before the public hearing. Notice of the public hearing shall also be mailed to the applicant not less than ten (10) days before the public hearing. Any report or recommendation on the application obtained or prepared by the Township Clerk and/or the Sharon Township Board shall be mailed to the applicant not less than ten (10) days before the public hearing. The applicant and any other interested parties may appear in person, by agent, or by letter at such hearing to submit comments on the application. Following the public hearing the Township Board shall approve, approve with conditions, or deny the application within 90 days after the Township Clerk determines that the application is administratively complete pursuant to Subsection 3.7.d., subject to any adjustments for delays in providing additional information as provided in Subsection 3.7.e. The Township Board shall not unreasonably deny an application for a Permit. The failure of the Township to comply strictly with the procedural requirements of this Section 3.7 for the review of Permit applications shall not invalidate the decision or proceedings of the Township.
- h. **Conditions.** The Township Board may impose conditions on a Permit to protect the public health, safety and welfare. Without limitation, these conditions may include the posting of a performance guarantee by the Telecommunications Provider in an amount that shall not exceed the reasonable cost to ensure that the Public Rights-of-Way are returned to their

original condition during and after the Telecommunications Provider's access and use, the requirement that the Telecommunications Provider place the Telecommunications System underground and the requirement that a Telecommunications Provider install its Telecommunications System in a structure that will permit other Telecommunications Providers to co-locate.

- i. **Modification.** The Township Board may in its discretion, grant a modification of a specific requirement of Sections 3.9, 3.10, 3.11 or 3.13 of this Ordinance if the applicant requests such modification in its application for a Permit and if the applicant demonstrates that: 1) there are exceptional or extraordinary circumstances that warrant a modification, 2) the modification will not be detrimental to the public health, safety and welfare, and 3) the modification, will not impair the intent and purposes of this Ordinance and its several Sections. The application shall describe the applicant's request for a modification and the reasons for the request with specificity. A modification granted by the Township Board pursuant to this Section shall expire upon the expiration of the Permit or earlier if so, determined by the Township Board. A modification shall modify only those requirements expressly set forth in the approval of the Township Board and shall not modify any other provisions of this Ordinance. If a request for a modification is denied by the Township Board the Telecommunications Provider shall comply with all requirements of this Ordinance without exception.
  
- j. **Waiver.** The Township Board may grant a waiver of any requirement of this Ordinance if an applicant or Permittee requests a waiver and the Township Board finds that: 1) unless waived the requirement will prohibit or have the effect of prohibiting the ability of the applicant or Permittee to provide any Telecommunications Service within the meaning of Section 253(a) of the Federal Telecommunications Act, 47 USC §253(a), 2) the requirement is not within the scope of any state or local authority referenced in Section 253(c) of the Federal Telecommunications Act, 47 USC §253(c), and 3) the requirement is not necessary to protect the public safety and welfare or safeguard the rights of consumers. A request for a waiver may be included in an application for a Permit. A request for a waiver shall include a detailed statement of the facts and circumstances forming the basis for the request, if the request is made in connection with an application for a Permit, the provisions of Subsections 3.6.d. through 3.6.g. shall apply to the request, except that submission of a request for a waiver shall constitute consent that the time periods provided in Subsection 3.6.g. for holding a public hearing and acting on an application are extended by 90 days Sections 3.6.a., 3.6.c., and 3.6.f. shall apply to a waiver request that is not made in connection with a Permit application and the request may be denied for violation of or failure to comply with any those provisions. Subsection 3.6.g. shall also apply to such a request, with the exception of the 45- and 90-day time periods set forth in that Section, but the Township Board may by resolution establish different or additional procedures for conducting the public hearing and acting on the request.<sup>91</sup>

### **Section 3.7 Annual Permit Fees.**

- a. **Establishment of Annual Fees; Payment.** In addition. to the non-refundable application fee set forth in Subsection 3.7.c. and any other fees for other permits, or authorizations required by the Township Code, the Permittee shall pay an annual fee in an amount established by Ordinance or resolution of the Township Board. The annual fee may be modified from time to time by Ordinance or resolution of the Township Board. The amount of the annual fee shall not exceed the fixed and variable cost to the Township in maintaining the Public Rights-of-

---

<sup>91</sup> Ord. No. 15, §7, adopted April 6, 2001

Way used by a Telecommunications Provider unless otherwise permitted by law. The annual fee shall be payable quarterly as follows:

1st quarter (Jan. 1 - March 31) .....	April 30
2nd quarter (April 1 - June 30) .....	July 31
3rd quarter (July 1 - Sept. 30) .....	October 31
4th quarter (Oct. 1 Dec. 31) .....	January 31

When a Permit is issued during a calendar year, the annual fee shall be prorated for the balance of the calendar year. In the event that a quarterly payment is not paid when due, the Permittee shall pay a late payment charge of the greater of \$100 or interest at the rate of one percent (1%) over the prime rate then charged by Bank One or its successor bank and computed monthly. A Person who violates this Ordinance by failing to obtain a Permit shall pay the annual fee plus late payment charges, as required by this Section for the time period in which the violator did not have a Permit plus the actual costs of the Township in enforcing this Ordinance against the Person.

- b. **Records.** All records (including those of Affiliates) reasonably necessary to verify the accuracy of annual fees paid by the Permittee under Subsection 3.7.a. shall be made available by a Permittee at a location within the Township. The Township, by itself or in combination with other municipalities, reserves the right to audit any Permittee (or any Affiliate of a Permittee) to verify the accuracy of annual fees paid or to be paid to the Township. Any additional amount due the Township shall be paid within 30 days of submission of an invoice. If the additional amount due exceeds two percent (2%) of the total annual fee which the audit determines should have been paid for a calendar year, the Permittee shall pay the Township's costs in, connection with the audit within 30 days of submission of an invoice.
- c. **Other Payments.** The non-refundable application fees and the annual fees established pursuant to this Ordinance shall be in addition to any tax, charge, fee, or payment due, or to become due to the Township by a Permittee under the Township Code or the laws of the State of Michigan.

**Misleading Statements.** A Person who provides information to the Township in connection with any matter under this Section which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall be in violation of this Ordinance, and shall be subject to all remedies for violation of this Ordinance and the Township Code including, without limitation, Permit revocation pursuant to Section 3.14. Anyone found to be in violation of this Ordinance shall also be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Each day that a Person fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this Ordinance.<sup>92</sup>

**Section 3.8 Duration of Permit; Renewal.** A Permit shall remain in effect until December 31 following the tenth anniversary of the issuance of the Permit (unless the Permit expires pursuant to Subsection 3.9.k. or the Permit is earlier revoked pursuant to Section 3.14). Applications for renewal of Permits shall be filed in the same manner as original applications in Section 3.6 and shall be filed with the Township not less than 120 days before the expiration of the Permit. The Township expressly reserves all

---

<sup>92</sup> Amended February 4, 2021. Effective February 18, 2021.

rights to approve, approve with conditions, or deny applications for Permit renewals pursuant to this Ordinance and to impose additional conditions on renewed Permits.<sup>93</sup>

### **Section 3.9 Permit Terms and Requirements.**

- a. **Non-Exclusive; Additional Permits.** A Permit shall be non-exclusive. The Township expressly reserves the right to approve, at any time, additional Permits for access to and ongoing use of the Public Rights-of-Way by Telecommunications Providers and to enter into agreements and grant franchises for such access and use. The issuance of additional Permits, entry into agreements, or grant of franchises shall not be deemed to amend, modify, revoke, or terminate the terms and conditions of any Permits previously issued to Telecommunication Providers.
- b. **Expansion Requests.** A Permit approved by the Township Board shall authorize access to and ongoing use of the Public Rights-of-Way described in the Permit, subject to strict compliance with the conditions of the Permit, the requirements of this Ordinance, and any other applicable requirements of the Township Code or applicable state and federal law. The Permittee shall not use any Public Rights-of-Way not expressly authorized by the Permit. Any use of the Public Right-of-Way (including any installation, construction, maintenance, repair, or operation of a Telecommunication System within the Public Rights-of-Way) to provide Telecommunications Services shall be performed only as authorized by the Permit. A Permittee may, however, expand its Telecommunications System to Public Rights-of-Way not described in its Permit, by obtaining approval of an amended Permit from the Township. Such approval may be granted in writing by the Township Board in response to a written request from the Permittee for expansion to specific portions of named Public Rights-of-Way. The Township Board may establish by resolution a non-refundable application fee for such a request. The Township Board may grant, grant with conditions, or deny such request. The Township, Board shall not unreasonably deny any such request. Any expansion into additional Public Rights-of-Way shall be subject to all terms and conditions of the original Permit and this Ordinance including without limitation, the application of the annual fee to the expanded Public Rights-of-Way used by the Permittee.
- c. **Construction Permit.** A Permittee shall not commence construction upon, over, across or under the Public Rights-of--Way in the Township without first obtaining a construction permit as required under the Township Code for construction within the Public Rights-of-Way.
- d. **Lease or Use of Facilities; Overcasting.** A Permittee shall not lease, sublease, license or otherwise allow the use of wires, conduit, poles or facilities in the Public Rights-of-Way by a Person who is required to obtain a Permit Under Section 3.5 of this Ordinance or is required by law to obtain the Township's permission or consent to transact local business in the Township, and who lacks such Permit, permission or consent. A Permittee shall not allow the property of a third party or non-Telecommunications System wires or any other facilities to be overpassed, affixed or attach to any portion of a Permittee's Telecommunications System or allow other actions with a similar result without the written consent of the Township Clerk.
- e. **"As Built" Maps.** Without expense to the Township, a Permittee shall provide the Township with "as built" maps, records, and plans showing its Telecommunications System or portions thereof within the Township, including those of Affiliates used by the Permittee, and maps and descriptive information of facilities of other Persons used by the Permittee. The Township Clerk may waive part or all of this requirement if satisfactory records of the location of the Telecommunications System were previously provided to the Township. The "as-built" maps,

---

<sup>93</sup> Ord. No. 15, §9, adopted April 6, 2001

- records and plans shall be provided within sixty (60) days of the completion of the Telecommunications System and any extensions, additions, or modifications to the Telecommunications System. In addition to the foregoing, a Permittee without expense to the Township, shall upon forty-eight (48) hours' notice, give the Township access to all "as-built" maps, records, plans and specifications showing its Telecommunication Systems or portions, thereof within the Township. Upon request by the Township, a Permittee shall inform the Township as soon as possible (but no more than one business day after the request) of any changes from previously supplied maps, records, or plans and shall markup maps provided by the Township so as to show the location of its Telecommunications System. As built plans shall be submitted on Mylar (minimum 3 mils thick) accompanied by a computer diskette or compact disc of the drawings in AutoCAD format, compatible with the Township's geographic information system. All plans shall be submitted to the Township Supervisor for review.
- f. No Recourse. A Permittee shall have no recourse whatsoever against the Township for any loss, cost, expense or damage arising out of the failure of the Township to have the authority to grant all or any part of a Permit or the authority to grant permission to use all or part of the Public Right-of-Way. A Permittee expressly acknowledges that on accepting a Permit it did so relying, on its own investigating and understanding of the power and authority of the Township.
  - g. No Inducement. By acceptance of a Permit, a Permittee acknowledges that it has not been induced to obtain the Permit by any understanding or, promise or other statement, whether verbal or written, by or on behalf of the Township or by any third Person concerning any term or condition of a Permit not expressed in this Ordinance.
  - h. Acceptance of Terms and Conditions. Permittee acknowledges by the acceptance of a Permit that it has carefully read its terms and conditions and does accept all of such terms and conditions.
  - i. No Priority. A Permit does not establish any priority of use of the Public Rights-of-Way by a Permittee over any present or future Permittee or parties having agreements, with the Township or franchises for such use. In the event of any dispute as to the priority of use of the Public Rights-of-Way, the first priority shall be to the public generally, the second priority to the Township, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between Permittees, other Permit holders, parties having agreements with the Township, and franchisees, as determined by the Township in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.
  - j. Future Use by Township. A Permittee acknowledges, by accepting a Permit, that it obtains no rights to or further use of the Public Rights-of-Way other than those expressly granted herein. Each Permittee acknowledges and accepts as its own risk that the Township may make use in the future of the Public Rights-of-Way which a Permittee is using or in which a Permittee's Telecommunications System is located in a manner inconsistent with the Permittee's use of such Public Rights-of-Way and that in such event the Permittee will not be entitled to compensation from, the Township.
  - k. Expiration of Permit. Unless the Township grants an extension, a Permit shall expire one year from the date of issuance unless prior thereto the Permittee either (1) commences construction, installation, or operation of its Telecommunications System within the Public Rights-of-Way authorized by the Permit and diligently pursues completion of construction or

installation, or (2) commences use of the Public Right-of-Way to provide Telecommunications service as authorized by the Permit.

- I. Access to Telecommunications System. A grantee shall permit connections to the Telecommunications System from any Township Buildings, police stations, fire stations, other public buildings, traffic signals, each school licensed by the State of Michigan and each public library within five hundred (500) feet of the Telecommunications System for the purpose of obtaining services on terms and conditions set forth in the permit.<sup>94</sup>

**Section 3.10 Use of Public Rights-of-way by Permittee.**

- a. No Burden on Public Rights-of-Way. A Permittee and its contractors and subcontractors and a Permittee's Telecommunications System, shall not unduly burden or interfere with the present or future use of any of the Public Rights-of-Way within the Township. A Permittee shall erect and maintain its Telecommunications System so as to cause minimum interference with the use of the Public Rights-of-Way and with the rights and reasonable convenience of property owners. Permittee's cables and wires shall be suspended or buried so as to not endanger or injure persons or property in the Public Right-of-Way. If the Township in its reasonable judgment determines that any portion of the Telecommunications System constitutes an undue burden or interference, the Permittee at its sole cost and expense shall modify its Telecommunications Systems or take such other actions as the Township may determine are in the public interest to remove or alleviate the burden and the Permittee shall do so within the time period established by the Township. The Permittee may be required, if deemed necessary by the Township, to directionally bore portions of the Telecommunication System underground where such boring will protect existing trees within the Public Rights-of-Way.
- b. Restoration of Property. A Permittee and its contractors and subcontractors shall immediately restore at the Permittee's sole cost and expense and in a manner approved by the Township any portion of the Public Rights-of-Way that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Telecommunications System to as good or better condition than that which existed prior to the disturbance. In the event that the Permittee, its contractors or subcontractors fail to do so within the time specified by the Township, the Township shall be entitled to complete the work and the Permittee shall reimburse the Township for the costs of doing so.
- c. Easements. Any easements over or under private property necessary for the construction or operation of a Telecommunications System shall be arranged and paid for by the Permittee. The Permittee shall provide a copy of said easements to the Township. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass by the Permittee and a violation of this Ordinance. Any easements over or under property owned by the Township other than the Public Rights-of-Way shall be separately negotiated with the Township.
- d. Tree Trimming. A Permittee may trim trees upon and overhanging the Public Rights-of-Way so as to prevent the branches of such trees from coming into contact with its Telecommunications System. The Permittee shall minimize the trimming of trees to trimming only those trees that are essential to maintaining the integrity of its Telecommunications System. No trimming shall be done in the Public Rights-of-Way without previously informing the Township. The Permittee's right to trim trees is subject to the supervision of the appropriate authority that has jurisdiction over the road and the Township Supervisor.

---

<sup>94</sup> Ord. No. 15, §10, adopted April 6, 2001

- e. **Pavement Cut Coordination/Additional Fees.** Open cuts of any pavement shall generally not be allowed. If expressly permitted in writing by the Township, state of the art directional boring methods shall be utilized wherever possible. A Permittee shall coordinate all construction work in the Public Rights-of-Way with Washtenaw County's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). A Permittee shall meet with the official of the Township primarily responsible for the Public Rights-of-Way at least twice per year to this end. The goals of such coordination shall be to require a Permittee to conduct all work in the Public Rights-of-Way in conjunction with or immediately prior to any street resurfacing planned by the Township or County, and to prevent the Public Right-of-Way from being disturbed by a Permittee for a period of years after such Street Resurfacing.
- In addition to any other fees or payments required by this Ordinance, a Permittee shall pay to Washtenaw County the sum established by the County's "Schedule of Permit Fees" for each such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the Public Rights-of-Way and is in addition to all other fees required by this Ordinance or the Township Code.
- f. **Marking.** A Permittee shall mark any installations of its Telecommunications System which occur after the effective date of this Ordinance as follows:
- (1) Aerial portions of its Telecommunications System shall be marked with a marker on its lines on alternate poles which shall state the Permittee's name and provide a toll- free number to call for assistance.
  - (2) Direct buried underground portions of its Telecommunications System shall have (i) a conducting wire placed in the ground at least several inches above the Permittee's cable (if such cable is nonconductive) (ii) at least several inches above that a continuous colored tape with the Permittee's name and a toll-free phone number and a statement to the effect that there is buried cable beneath, and (iii) stakes or other appropriate above-ground markers with the Permittee's name and a toll-free number indicating that there is buried telephone cable below.
  - (3) Portions of its Telecommunications System located in conduit, including facilities of others used by a Permittee, shall be marked at each manhole with the Permittee's name and toll-free telephone number to call for assistance.
- g. **Compliance with Laws.** A Permittee shall comply with all laws, statutes, Ordinances, rules and regulations regarding the installation, construction, ownership and use of its Telecommunications System whether federal, state or local, now in force or which hereafter may be promulgated (including, without limitation, any Ordinance requiring the installation of additional conduit when a Permittee installs underground conduit for its Telecommunications System). Before any installation is commenced the Permittee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or other governmental entity as may be required by law, including without limitation, all utility line permits and highway permits. A Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition), and the National Electric Code (latest edition). A Permittee shall comply with all zoning and land use Ordinances and historic preservation ordinances as may exist or may hereafter be amended.

- h. Street Vacation. If the Township vacates or consents to the vacation of Public Rights-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of a Permittee's facilities in the vacated right-of-way the Permittee shall as a condition of the permit, consent to the vacation and move its facilities at its sole cost and expense when ordered to do so by the Township or a court of competent jurisdiction. The Permittee shall relocate its facilities to such alternate route as the Township acting reasonably and in good faith, shall designate.
- i. Relocation. If the Township requests a Permittee to relocate, protect, support, disconnect, place underground or remove its facilities because of street or utility work, or other public projects, the Permittee shall relocate, protect, support, disconnect, place underground or remove its facilities, at its sole cost and expense to such alternate route as the Township, acting reasonably and in good faith, shall designate. The work shall be completed within the time period designated by the Township.
- j. Public Emergency. The Township shall have the right to sever, disrupt, dig-up or otherwise destroy facilities of a Permittee, without any prior notice, if such action is deemed necessary by the Supervisor or as recommended to the Supervisor by the Township Clerk, Police Chief or Fire Chief or their designees because of a public emergency. A public emergency shall be any condition which in the opinion of any of the officials named, poses an immediate threat to life, health or property caused by any natural or man-made disaster including, but not limited to storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. The Permittee shall be responsible for repair at its sole cost and expense of any of its facilities damaged pursuant to any such action taken by the Township.
- k. Miss Dig. If eligible to join, a Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- l. Use of Existing Facilities; Underground Placement. To the maximum extent possible, the Telecommunications System shall be placed underground. To the extent the Permittee establishes to the satisfaction of the Township in the Township's sole discretion that the Telecommunications System, cannot be placed underground the Telecommunications System shall be placed within and along the existing duly franchised public utility company facilities. A Permittee shall utilize existing poles, conduits, and other facilities wherever practicable and shall not construct or install any new, different, or additional poles or other facilities unless expressly authorized by the Permit. If the Permittee locates underground along a public right-of-way, the Permittee may be required to construct the underground Telecommunications System in a manner determined by the Township Board, to allow other Telecommunications Providers to co-locate. Where utility wiring is located underground, either at the time of initial construction or subsequent thereto, a Permittee's Telecommunications System shall also be located underground unless otherwise expressly authorized by the Permit. All undergrounding shall be at the sole cost and expense of Permittee.
- m. Underground Relocation. If a Permittee has its facilities on poles of the duly authorized public utility or, other public utility company and the duly authorized public utility authority relocates its facilities, underground, the Permittee shall relocate its facilities underground in the same location at Permittee's sole cost and expense.



- n. Pole/Conduit License Agreement; Notification. If a Permittee forfeits or otherwise loses its rights under a pole/conduit License agreement with the duly authorized public utility or other entity, then Permittee shall, notify the Township Clerk in writing within thirty (30) days.
- o. Identification. All personnel of a Permittee and its contractors or Subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. A Permittee shall account for all identification cards at all times. Every service vehicle of a Permittee and its contractors or subcontractors shall be clearly identified as such to the public with the Permittee name and telephone number.
- p. 9-1-1 Emergency Service. As a condition of a Permit, a Permittee providing Local Exchange Service shall provide 9-1-1 service within the Township in accordance with the provisions of the applicable 9-1-1 Service Plan and the rules and orders of the Michigan Public Service commission.<sup>95</sup>

### **Section 3.11 No Township Liability; Indemnification.**

- a. Township Not Liable. The Township, and its officers, agents, elected or appointed officials, employees, departments, boards, and commissions, shall not be liable to a Permittee or to its Affiliates or customers for any interference with or disruption in the operation of a Permittee's Telecommunications System or the provision of Telecommunications Services, or for any damages arising out of a Permittee's use of the Public Rights-of-Way.
- b. Indemnification. As a condition of a Permit, a Permittee shall defend, indemnify, protect, and hold harmless the Township, its officers agents, employees, elected and appointed officials departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of the Permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent of the fault of the Permittee, its officers, agents, employees, contractors, successors, or assigns.<sup>96</sup>

### **Section 3.12 Insurance.**

- a. A Permittee shall obtain and maintain in full force and effect for the duration of a Permit the following insurance covering all insurable risks associated with its ownership or use of its Telecommunications System.
  - (1) A comprehensive general liability insurance policy, including Completed Operations, Liability, Independent Contractors Liability, Contractual Liability coverage and coverage for property damage, from perils of explosion, collapse or damage to underground utilities, commonly known as XC coverage, in an amount not less than Ten Million Dollars (\$10,000,000.00).
  - (2) An Automobile Liability Insurance Policy covering any vehicles used in connection with its activities under its Permit in an amount not less than One Million Dollars (\$1,000,000.00).
  - (3) Workers' Compensation and Employer's Liability Insurance with statutory limits.
- b. The Township shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless thirty (30) days prior

<sup>95</sup> Ord. No. 15, §11, adopted April 6, 2001

<sup>96</sup> Ord. No. 15, §12, adopted April 6, 2001

- written notice is given to the Township. A Permittee shall provide the Township with a certificate of insurance evidencing such coverage as a condition of issuance of the Permit and shall maintain on file with the Township a current certificate. All insurance shall be issued by insurance carriers licensed to do business by the state of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- c. Each policy which is to be endorsed, to add the Township as an additional insured hereunder, shall contain cross-liability wording, as follows:  
"In the event of a claim being made hereunder by one insured for which another insured is or may be liable then this policy shall, cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."
  - d. If the insurance policies required by this Section are written with deductibles in excess of \$50,000, the deductibles shall be approved in advance by the Township. A Permittee agrees to indemnify and save harmless the Township from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Ordinance.
  - e. The Permittee shall, require that its contractors and subcontractors working in Public Rights-of-Way carry in full force and effect workers compensation and employer liability, comprehensive general liability and automobile liability insurance coverages of the types which Permittee is required to obtain under Subsection 3.12.a. with appropriate limits of coverage.
  - f. The Permittee's insurance coverage shall be primary insurance with respect to the Township, its officers, agents, employees, elected, and appointed officials, departments, boards, and commissions. Any insurance or self-insurance maintained by any of them shall be in excess of the Permittee's insurance and shall not contribute to it.<sup>97</sup>

**Section 3.13 No Assignment or Transfer of Control Without Township Consent.** A Permittee shall not assign or transfer a Permit or any of its rights under a Permit, in whole or in part, voluntarily, involuntarily or by operation of law, including by merger or consolidation or by other means, nor shall there be a transfer of Control of a Permittee or its business, without the prior written consent of the Township, which shall not be unreasonably withheld. The Permittee shall reimburse the Township for reasonable, actual costs incurred in the review of a request by the Permittee for consent to an assignment or transfer of the Permit or a transfer of Control of a Permittee or its business. Notwithstanding, anything in this Section to the contrary, the Permittee may grant a security interest in its rights under a Permit in favor of a third party without first obtaining the consent of the Township. If a Permit or any rights thereunder is assigned or transferred in whole or in part, with the approval of the Township, the terms and conditions of the Permit and of this Ordinance shall be binding upon the successors and assigns of the Permittee.<sup>98</sup>

**Section 3.14 Revocation.** In addition to all other rights, and powers reserved or pertaining to the Township, the Township reserves as an additional separate and distinct remedy the right to revoke a Permit and all rights and privileges of a Permittee in any of the following events or for any of the following reasons:

---

<sup>97</sup> Ord. No. 15, §13, adopted April 6, 2001

<sup>98</sup> Ord. No. 15, §14, adopted April 6, 2001

- a. A Permittee fails after sixty (60) days prior written notice to comply with any of the provisions of the Permit or this Ordinance (except Subsections 3.6.f or 3.7.e); or
- b. A Permittee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt; or
- c. All or part of a Permittee's facilities are sold under an instrument to secure a debt and are not redeemed by the Permittee within ninety (90) days from such sale; or
- d. A Permittee violates Subsections 3.6.f or 3.7.e of this Ordinance or otherwise attempts to or does practice any fraud or deceit in its conduct or relations with the Township; or
- e. The Township condemns all of the property of a Permittee within the Township by the lawful exercise of eminent domain; or
- f. A Permittee abandons its Telecommunication System or fails to seek renewal of its Permit; or
- g. A Permittee fails to pay any fines due for violations of this Ordinance; or
- h. A Permittee fails to pay any civil fines imposed by a court of competent jurisdiction, such as pursuant to an Ordinance providing for civil infractions; or
- i. The Township provides for termination, with or without cause, by delivering notice at least sixty (60) days prior, to the effective date of such termination.

No revocation, except for reason of condemnation shall be effective unless the Township Board shall have adopted a resolution setting forth the reason for the revocation and the effective date, which resolution shall not be adopted without sixty (60) days prior notice to the Permittee and a hearing at which the Permittee receives rudimentary due process.<sup>99</sup>

### **Section 3.15 Removal.**

- a. Removal; Underground. Upon revocation of a Permit, or upon expiration of a Permit if the Permit is not renewed, the Permittee may remove any underground Cable from the Public Rights-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the streets along the extension of Cable to be removed. Except as otherwise provided, the Permittee shall not remove any underground Cable or conduit which requires trenching or other opening of the Public Rights-of-Way along the extension of Cable to be removed. The Permittee shall remove, at its sole cost and expense, any underground Cable, or conduit which is ordered to be removed by the Township based upon a determination, in the sole discretion of the Township that removal is required in order to eliminate or prevent a hazardous condition or promote future utilization of the streets for public purposes. Any order by the Township to remove Cable or conduit shall be mailed to the Permittee not later than thirty (30) calendar days following the date of revocation or expiration of the Permit. A Permittee shall file written notice with the Township Clerk not later than thirty (30.) calendar days following the date of expiration or termination of the Permit of its intention to remove Cable and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the Township. Removal shall be completed not later than twelve (12) months following the date of revocation or expiration of the Permit. Underground Cable and conduit in the Public Rights-of-Way which is not removed within such time period shall be deemed abandoned and, at the option of the

---

<sup>99</sup> Ord. No. 15, §15, adopted April 6, 2001

Township, title shall be vested in the Township. For purposes of this subsection, "Cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

- b. **Removal; Above Ground.** Upon revocation of a Permit, or upon expiration of a Permit if the Permit is not renewed, a Permittee, at its sole cost and expense, shall unless relieved of the obligation by the Township, remove from the Public Rights-of-Way all above ground elements of its Telecommunication System, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.
- c. **Permits; Restoration; Completion.** A Permittee shall apply for and obtain such encroachment, permits, licenses, authorizations or other approvals and pay such fees and deposit such security as required by applicable law or Ordinances of the Township, shall conduct and complete the work of removal in compliance with all such applicable law or Ordinances, and shall restore the Public Rights-of-Way to the same condition they were in before the work of removal commenced.
- d. **Performance Guarantee.** The Permittee shall be required to post a surety bond, irrevocable bank letter of credit or security deposit, in an amount to be specified by the Township as being sufficient to ensure that the costs associated with the removal of the Telecommunications System shall be covered in the event the Permittee goes out of business. In fixing the amount of such surety bond, letter of credit or security deposit, the Township shall take into account the probable cost of removing the Telecommunication System as estimated by the Township Engineer, the estimated expenses to compel the Permittee to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.<sup>100</sup>

### **Section 3.16 Other Provisions Not Waived.**

- a. Nothing in this Ordinance shall be construed as a waiver of any ordinances, codes, or regulations of the Township or the Township's right to require Permittee or Persons utilizing the Telecommunication System or Telecommunications Services to secure appropriate permits or authorization for such use.
- b. The Township fully reserves its police powers to ensure and protect the public health, safety, and welfare and fully reserves its authority and power to amend this Ordinance at any time. The terms and conditions of any Permit shall be subject to compliance with any future amendments of this Ordinance. The Township fully reserves its right to exercise the reasonable control of the Public Rights-of-Way pursuant to Article VII, 29 of the 1963 Michigan Constitution.
- c. Nothing in this Ordinance or any Permit shall limit any right the Township may have to acquire by eminent domain any property of a Telecommunications Provider.
- d. Nothing in this Ordinance or any Permit shall limit the authority of the Township to impose a tax, fee, or other assessment of any kind on any Person. A Telecommunications Provider shall pay all fees necessary to obtain all Federal, State, and local licenses, permits, and authorizations required for the construction, installation, maintenance, or operation of its Telecommunications System within the Public Rights-of-Way.<sup>101</sup>

<sup>100</sup> Ord. No. 15, §16, adopted April 6, 2001

<sup>101</sup> Ord. No. 15, §17, adopted April 6, 2001

**Section 3.17 Violation as Municipal Civil Infraction.**

Anyone found to be in violation of this Ordinance shall be responsible for a municipal civil infraction. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Each day that a violation remains shall constitute a separate violation of this Ordinance.<sup>102</sup>

---

<sup>102</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 4. AGRICULTURAL DEVELOPMENT RIGHTS****Section 4.1 Findings and Declaration of Purpose.** The Board of Trustees finds that:

- a. Sharon Township is a desirable place to live, work and visit in large part because of the availability of farmland and the relief that agricultural fields bring. Scenic views, agriculture, open spaces and wildlife habitat are all considered invaluable natural and aesthetic resources and should be protected.
- b. The climate, variety of soils and terrain make the Township well suited to the production of a great number of row crops, specialty crops and livestock, including many foods available for direct human consumption. These resources include several thousand acres of land currently in agricultural production, and other woodland, wetland and open lands adjacent to these farmlands. Such lands provide unique, aesthetic and economic benefits to the citizens of the Township and are an important part of the Township's natural and agricultural heritage.
- c. Sharon Township is experiencing substantial residential development, however, because of its location to the highly urbanized areas of southeast Michigan, its attractive landscapes and its excellent public schools. The same characteristics which have made this area so desirable for agricultural production and recreation also make it attractive for residential sites.
- d. The agricultural industry in Sharon Township provides the opportunity to harvest locally grown foods to sell at roadside stands, farmer's markets, local retail food stores and other local outlets in the area. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more developed uses which do not require those special characteristics, a critical community resource is permanently lost to the citizens of Sharon Township.
- e. It is the policy of the State of Michigan and Sharon Township to protect, preserve and enhance agricultural lands as evidenced by the Township General Development Plan, the Township Zoning Act, MCLA 125.271 et seq. and other state and local statutes and policies. Ordinances regulating land use by zoning and subdivision control enacted by the Township also serve these purposes. These measures by themselves, however, have not been effective in providing long-term protection of farmland under the pressure of increasing residential development.
- f. Agriculture in Sharon Township produces a notable array of products, from corn and soybeans to vegetables and fruit to cattle. The Township's agricultural acreage contributes tens of thousands of dollars to the local economy in direct sales of agricultural products at the farm gate.
- g. Generally, farmlands which are close to urban centers have a greater market value for future residential development than their market value for farming or open space. Prime agricultural land often has the same features (such as permeable soils) that are components of desirable residential areas. This fact encourages the speculative purchase of these lands at high prices for future residential development, regardless of the current zoning of such lands. Farmland which has a market value greater than its agricultural value does not attract sustained agricultural investment and eventually this land is sold by farmers and removed from agricultural uses.

- h. The permanent acquisition of voluntarily offered interests in farmland within the Township, as provided in this Ordinance and as authorized by the Constitution and statutes of the State of Michigan, will permit these lands to remain in agricultural use near developing urban areas and provide long-term protection for the public interests which are served by farmland in the Township.
- i. Properties on which the Township has purchased the development rights should remain substantially undeveloped in order to promote their agricultural use.
- j. The acquisition of interests in farmland as provided in this Ordinance is a public purpose of Sharon Township as provided in this Ordinance and financing such acquisition requires that the Township enter into purchases or installment purchases not to exceed statutory limits.
- k. This ordinance is authorized by Sections 507 - 509 of the Zoning Enabling Act, MCL, 125.3507 - 125.3509

**Section 4.2 Definitions.**

- a. "Supervisor" means the Sharon Township Supervisor.
- b. "Agricultural Rights" means an interest in and the right to use and possess land for purposes and activities related to open space, natural habitat, horticultural and other agricultural uses
- c. "Agricultural Use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including fruits, nuts, vegetables, greenhouse plants, Christmas trees and lumber, forages and sod crops, grains and feed crops, dairy and dairy products, livestock (including breeding and grazing), poultry and other similar uses and activities,
- d. "Appendix A" of this Ordinance means the maps which describe types and locations of farmland for purposes of priority of acquisition as provided in this Ordinance. Official large-scale maps describing such areas in detail are available through the Township and are incorporated herein by this reference. Smaller scale maps generally illustrating such areas are appended to this Ordinance for more readily accessible public reference.
- e. "Chairperson" means the member of the Farmland Preservation Board who is elected Chairperson by the Preservation Board.
- f. "Board of Trustees" means the Sharon Township Board of Trustees.
- g. "Development" means an activity which materially alters or affects the existing conditions or use of any land.
- h. "Development Rights" means an interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agriculture and open space.
- i. "Development Rights Easement" means a grant by an instrument whereby the owner relinquishes to the public in perpetuity the right to develop the land as may be expressly reserved in the instrument, and which contains a covenant running with the land not to develop, except as this right is expressly reserved in the instrument.

- j. "Eligible Land" means farmland for which the purchase of "development rights easements" with tax funds and other monetary sources are authorized pursuant to this Ordinance.
- k. "Farmland and Open Space Land" means those lands shown in the Township Master Plan as being zoned for agricultural and Resource Conservation uses, as adopted and amended from time to time by the Township Planning Commission
- l. "Farmland and Open Space Preservation Board" means the board formed pursuant to Section 4.6 of this Ordinance to advise the Board of Trustees in the selection of Eligible Lands for easement purchases.
- m. "Full Ownership" means fee simple ownership.
- n. "Governmental Agency" means the United States or any agency thereof, the State of Michigan or any agency thereof or any Township, City or municipal corporation.
- o. "Owner" means the party or parties having the fee simple interest in land.
- p. "Parcel" means all property under a single ownership that is included in the application.
- q. "Permitted Use" means any use contained within a development rights easement essential to the farming.
- r. "Residential Development Rights" means the right to sell portions of a property, or to construct houses on a property, for residential uses not related to the agricultural use of the property.
- s. "Substantially Undeveloped Land" means land on which there is no more than one residential dwelling unit (exclusive of housing units directly associated with the fanning operation) for each 40 acres of land
- t. "Value of Development Rights" means the difference between the fair market value of full ownership of the land (excluding the buildings thereon) and the fair market value of the agricultural rights plus any residential development rights to be retained by the owner.<sup>103</sup>

#### **Section 4.3 Authorization.**

- a. The Board of Trustees is hereby authorized to expend revenues to acquire property interests in the farmland described and prioritized in Section 4.5 of this Ordinance. The property interest acquired may either be the development rights, or any lesser interest, easement, covenant or other contractual right. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract.
- b. The Township is authorized to enter into cash put chase and/or installment purchase contracts, and agreements for the receipt of tax-deductible donations of easements, consistent with applicable law. When installment purchases are made, the Township is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment contract for the tax-exempt status of such interest.

---

<sup>103</sup> Ord. No. 16, §2, adopted December 5, 2002



- c. The Board of Trustees is further authorized to contract with recognized and legally established nonprofit land trusts (for example, American Farmland Trust and Washtenaw Land Trust) or other experienced and qualified nonprofit groups to participate jointly in the acquisition of interests in eligible lands.
- d. The Township may contract with recognized and legally established nonprofit land trusts or other experienced and qualified nonprofit groups that would share in the process of negotiating easements and establishing both the baseline studies and the procedures for monitoring of any conservation easements acquired under this Ordinance and would be done in accordance with "The Standards and Practices Guidebook" issued in 1989 by the Land Trust Alliance.<sup>104</sup>

#### **Section 4.4 Retained Residential Development Rights.**

- a. To promote "agricultural use" of properties on which the Township has purchased the Development Rights, it has been determined that such properties should remain substantially undeveloped.
- b. It may be in the best interest of property owners and of the program to purchase development rights that property owners retain some residential development rights so long as the land remains substantially undeveloped. When property owners retain some development rights their land value remains higher than it would be if they sold all their development rights and the value of the development rights to be purchased is correspondingly reduced.
- c. Applications for the sale of development rights may include a provision to retain the right to build residential dwellings (residential development rights), provided that no retained residential development rights would result in more than one dwelling unit per forty (40) acres of land (exclusive of housing units directly associated with the farming operation). This is not to preclude the sale of all the remaining dwelling units in excess of one dwelling unit per forty acres of land.
- d. The building locations for retained residential development rights may be restricted in the negotiated "conservation easement" in order to protect other important features of the property. Building locations and lot sizes must also conform to existing zoning in the Township where the property is located.<sup>105</sup>

#### **Section 4.5 Eligible Lands and Priority of Acquisition.** Revenues shall be used to purchase property interests in the following lands in the following order of their priority subject to the provisions of Section 4.7.

- a. Primary Criteria That All Properties must meet: Land for sale on the open market or voluntary application by the property owner and those lands shown in the Township Master Plan as being zoned for agricultural or resource conservation uses, or as rural residential where agriculture is practiced on larger parcels. as adopted and amended from time to time by the Township Planning Commission.
- b. Criteria for Selection: The following criteria shall be used in determining the order in which applications will be prioritized in any Selection Round to purchase development rights on all eligible lands for which complete applications have been received by the Township. This numerical ranking system has been developed to prioritize sites for the purchase of conservation easements. After an initial screening (for hazardous waste and agricultural

---

<sup>104</sup> Ord. No. 16, §3, adopted December 5, 2002

<sup>105</sup> Ord. No. 16, §4, adopted December 5, 2002

zoning, e.g.), sites will be evaluated using this system. It is the intention of the users of this system to direct efforts toward high quality farmland and open space in areas of the Township where its preservation is most appropriate. Appropriateness is determined by favorable natural conditions and location factors which make farming a viable undertaking both currently and in the future. Areas targeted for preservation are those lands shown in the Township General Development Plans as being zoned for agricultural or resource conservation uses, as adopted and amended from time to time by the Township Planning Commission.

- c. Description of the System. The farmland ranking system consists of four sections as follows. The maximum point value is 100, with some additional points possible in the event of a tie.

PART	TOTAL POINTS
Characteristics of the Farmland.....	34
Stewardship of the Land .....	22
Pressure for Conversion to Nonfarm Use .....	12
Long-range Planning Considerations.....	32

- d. Priorities. The point value arrived at through the use of this system will be used to prioritize farm sites for purchase of conservation easements. Higher point values indicate higher priority for purchase. In the case of a tie using the 100-point scale, the tiebreaking categories may be used. All property in a single ownership may be included in one application. Contiguous properties under the same ownership will be treated as a single entity.

Note: An explanation of terms and parameters used in the system appears in Appendix B.

**PART: CHARACTERISTICS OF THE FARMLAND MAXIMUM POINTS = 34**

- (1) Type of Agricultural Land (See Appendix for explanation of terms)

<u>Category</u>	<u>Score</u>
Essential .....	15
Secondary .....	7
Reserve .....	3

- (2) Size of Parcel Offered for Development Rights Purchase (See Appendix)

<u>Acreage</u>	<u>Score</u>
80 acres or more .....	8
40 to 79.9 acres .....	5
20 to 39.9 acres .....	2

- (3) Proximity to Protected Land (See Appendix)

<u>Distance</u>	<u>Score</u>
Adjacent or within one mile .....	7
Between one and two miles .....	4
More than two miles .....	1

- (4) Farm Buildings

<u>Buildings</u>	<u>Score</u>
Usable, functional farm buildings on site .....	4
Usable, functional farm buildings within two miles .....	2

**PART: STEWARDSHIP OF THE LAND MAXIMUM POINTS = 22**

(1) Conservation Plans (See Appendix)

<u>Extent of Conservation Plan</u>	<u>Score</u>
Conservation plan fully implemented or conservation practices used to the fullest extent necessary .....	8
Conservation plan partially implemented or some practices used .....	4

(2) Livelihood

<u>Dependence on Farm Income</u>	<u>Score</u>
Farming contributes 50% or more of owner's gross annual income .....	4
Farming contributes less than 50% of owner's gross annual income .....	2

(3) Commitment to Farming (See Appendix)

<u>Enrollment in P.A 116 or Duration of Ownership</u>	<u>Score</u>
Farm is enrolled in P.A. 116 and land has been in the same ownership for at least 50 years .....	10
Farm is enrolled in P.A. 116 or has been in the same ownership for at least 50 years .....	6

**PART: PRESSURE FOR CONVERSION TO NONFARM USE (OR SITE DEVELOPMENT CAPABILITIES AND LIMITATIONS) MAXIMUM POINTS= 12**

(1) Amount of Road Frontage

<u>Frontage</u>	<u>Score</u>
1,000 feet or more .....	4
501 to 999 feet .....	2

(2) Percentage of Site Containing Steep Slopes (See Appendix)

<u>Steep Slopes</u>	<u>Score</u>
0 to 9.9% .....	4
10 to 19.9%.....	2

(3) Amount of Wetlands and/or Floodplain

<u>Wetlands/Floodplain</u>	<u>Score</u>
0 to 9.9%.....	4
10 to 39.9%.....	2

**PART: LONG-RANGE PLANNING CONSIDERATIONS MAXIMUM POINTS= 32**

(1) Current Adjacent Zoning Classification

<u>Percent of Perimeter in Agricultural or Resource Conservation Zoning</u>	<u>Score</u>
90% or more .....	5
75-89%.....	3
50-74%.....	2
25-49%.....	1

(2) Current Adjacent Land Use

<u>Percent of Perimeter in Agricultural or Resource Conservation Use</u>	<u>Score</u>
90% or more .....	5
75-89%.....	3
50-74%.....	2
25-49%.....	1

(3) Current Adjacent Enrollment in P.A. 116 (See Appendix)

<u>Percent of Perimeter in P.A 116</u>	<u>Score</u>
90% or more .....	5
75-89%.....	3
50-74%.....	2
25-49%.....	1

(4) Proximity to Water and/or Sewer Lines

<u>Distance</u>	<u>Score</u>
One-half mile to two miles .....	5
Two miles to five miles .....	2

(5) Scenic, Historical or Architectural Features (See Appendix)

<u>Features</u>	<u>Score</u>
Site provides a vista or has unique historical or architectural structures .....	4
Site provides an accent.....	2

(6) Natural Features

<u>Features</u>	<u>Score</u>
Stream corridors, woodlots or rare species present .....	4

(7) Groundwater Recharge Area

<u>Percent of Property Serving as Groundwater Recharge</u>	<u>Score</u>
50 to 100% .....	4
10 to 49% .....	2

**PART: TIEBREAKERS MAXIMUM POINTS= 10**

(1) Ability to Attract Matching Funds (See Appendix)

<u>Funds Availability</u>	<u>Score</u>
Matching funds are available.....	5

(2) Owner Willingness to Accept Less Than Market Value (See Appendix)

<u>Owner Willingness</u>	<u>Score</u>
Owner willing to accept below-market offer.....	5 <sup>106</sup>

**Section 4.6 Farmland Preservation Board.** The Sharon Township Board of Trustees shall serve as the Farmland Preservation Board (the "Preservation Board").<sup>107</sup>

**Section 4.7 Selection.** The Farmland Preservation Board shall conduct a voluntary property selection process (herein called the "Selection Round") generally as follows:

- a. In each selection land the development rights on all eligible land properties shall be eligible for purchase in all selection rounds, properties of higher priority shall be purchased with available funds before properties of lower priority are purchased, provided:
  - (1) The Preservation Board may negotiate for a lower price and/or seek outside funding for the purchase of development rights on any parcel offered.
  - (2) In the interest of protecting a significant amount of agricultural land, the Preservation Board may determine not to buy all of any of the development rights on a particular parcel if the Preservation Board makes a finding that it is in the best interest of the program to protect a larger number of acres rather than a smaller number of acres of higher valued development rights.
  - (3) The Preservation Board may receive and act on appeals of any factual nature by affected property owners.
- b. The Preservation Board shall begin each selection round by giving notice in one newspaper of general circulation in Sharon Township. The notice shall describe the properties eligible for purchase in the selection round; the general procedure to be followed in the selection process (including an estimated time schedule for the steps in the process) , and shall invite the owners of such properties to make application for purchase of development rights by the Township and to describe the property interest which the owner is willing to sell, including any residential development rights to be retained by the owner Applications shall be submitted to a location to be specified by the Preservation Board and stamped with the date of receipt.
- c. Upon dosing of the application period, the Preservation Board shall review each application which has been received to determine the eligibility and priority classification of each property interest and to verify ownership by tax records.
- d. For those properties which meet the requirements of Section 4.5. the Preservation Board shall cause an appraisal of the applicant's property interest to be made. A "before and after"

<sup>106</sup> Ord. No. 16, §5, adopted December 5, 2002

<sup>107</sup> Ord. No. 16, §6, adopted December 5, 2002

appraisal shall be made to determine the value of development rights One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and one shall determine the fair market value of the agricultural rights plus any specifically retained residential development rights.

- e. Appraisals shall be made by State certified appraisers selected by the Preservation Board. The selected appraiser shall not have a property interest, personal interest or financial interest in eligible lands the same appraiser shall conduct the before and after appraisals.
- f. Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the Preservation Board or by owners of the property appraised, but corrections of the appraisal maybe made only by the appraiser. If an owner of property believes it has not been adequately appraised, such owner may, within the time allowed on the selection schedule, have a review appraisal be made at the owner 's expense by a State certified appraiser. The appraisal shall then be filed with the Preservation Board. The Preservation Board shall use both appraisals to reach an agreement as to the appropriate value of the development rights.
- g. Terms and conditions of sale and information on the effect of the sale may he discussed by the entire Preservation Board with owners prior to the submission of written applications.
- h. Written applications by owners who desire to have their development rights purchased by the Township shall be submitted on forms provided by the Preservation Board. These written offers shall include any development options desired to be retained by the owners.
- i. Upon receiving the recommendations of the Preservation Board, the Board of Trustees shall take final action on such recommendations.
- j. Once action to select properties for the purchase of development rights has been taken by the Board of Trustees, the Preservation Board shall draft a baseline documentation report describing through photographic, pictorial and narrative means the condition of the property at the time of the grant and a development rights easement. The baseline report shall contain a signature page where the Owner and the Supervisor sign to state that the report is an accurate description of the property at the time of grant. The easement shall similarly feature a page where the signatures of the Owner and the Supervisor are notarized, following which the easement shall be recorded with the county register of deeds so that it is effective on all current and future owners.
- k. Upon the completion of a purchase of development rights transaction, the Township assessor will be notified of the development rights purchase.<sup>108</sup>

#### **Section 4.8 Duration of Acquired Interests.**

- a. Development rights acquired pursuant to this Ordinance shall be held in trust by the Township for the benefit of its citizens in perpetuity, provided however that a property owner who has sold Development Rights to the Township may repurchase those Rights upon the following conditions:
  - (1) Fifty (50) years have passed since the Development Rights were sold and;

---

<sup>108</sup> Ord. No. 16, §7, adopted December 5, 2002

- (2) The Township Board or Trustees determines that the property may not be reasonably used for Agricultural Use and based on the following factors:
- i. That because of the quality of the farmland, agricultural production cannot be made economically viable with generally accepted agricultural and management practices;
  - ii. That surrounding conditions impose physical obstacles to the agricultural operation or Prohibit essential agricultural practices;
  - iii. That significant natural physical changes in the farmland have occurred that are generally irreversible and permanently limit the productivity of the farmland;
  - iv. That a court order restricts the use of the farmland so that agricultural production cannot be made economically viable.

- (3) The repurchase of the development rights is consistent with the purpose of the Township's PDR program as determined by the Township Board of Trustees; and

- b. Once the Township Board of Trustees determines that a property is eligible to have its Development Rights repurchased, the owner shall pay the fair market value of those rights at the time of their return, as determined by a State Certified Appraiser. The property owner may not challenge this appraisal. If the Appraiser has a conflict of interest associated with a potential appraisal, he/she shall report the conflict to the Township and the Township shall select another Appraiser to complete the appraisal. The Township will deposit the proceeds from any repurchases into a separate fund that shall be used to purchase additional Development Rights or for other agriculture land preservation means available within the Township.
- c. A repayment received shall be allocated to all original contributing fund partners in the same proportion as the proportion for the original purchase of the development rights of the parcel.
- d. The Township may convey development rights acquired pursuant to this Ordinance to a conservation, open space preservation, historic preservation or similar organization under terms ensuring that the public benefits for which the Township purchased the development rights will be maintained.<sup>109</sup>

**Section 4.9 Related Costs.** The costs of appraisal, engineering, surveying, planning, financial, legal and other services lawfully incurred incident to the acquisition of interests in eligible lands by the Township may be paid by the Township. The Township shall not be responsible for expenses incurred by the owner incident to this transaction.<sup>110</sup>

**Section 4.10 Supplemental Funds.** Supplemental or matching funds from other governmental agencies or private sources may become available to pay a portion of the cost of acquiring development rights, or some lesser interest in eligible lands or to supplement or enlarge such acquisition. The Farmland Preservation Board is hereby authorized to utilize such funds to purchase interests in eligible lands or to

<sup>109</sup> Ord. No. 16, §8, adopted December 5, 2002, amended by Ordinance 2007-2, adopted February 1, 2007

<sup>110</sup> Ord. No. 16, §9, adopted December 5, 2002

otherwise supplement Township funds in the manner provided by this Ordinance and in accordance with the applicable laws or terms governing such grant.<sup>111</sup>

**Section 4.11 Purpose.** The Board of Trustees finds and declares that the use of Township funds for the purpose of paying in whole or in part the cost of acquisition of interests in eligible lands as set forth herein, including any costs necessarily incident to such acquisition, and the monitoring and enforcement of development rights easements, or to participation with any party for such purposes- will promote the public health, safety and general welfare of the people of Sharon Township.<sup>112</sup>

**Section 4.12 Development Rights Funding Sources and Acquisition Fund.**

- a. Funding for purchasing development rights may come from one or more of the following sources:
  - (1) General appropriations by the township.
  - (2) Proceeds from the sale of development rights by the township subject to subsection 4.8(f) of this Ordinance.
  - (3) Grants.
  - (4) Donations.
  - (5) Bonds or notes issued under subsections 4.12(b) to (f)
  - (6) General fund revenue.
  - (7) Special assessments under subsection 4.12(h).
  - (8) Other sources approved by the township board and permitted by law.
- b. The township board may borrow money and issue bonds or notes under the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, subject to the general debt limit applicable to the township The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes; or bonds or notes to refund in advance bonds or notes issued under this section.
- c. The township board may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the township board is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the township, irrespective of whether the parties have notice of the lien Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.
- d. Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

---

<sup>111</sup> Ord. No. 16, §10, adopted December 5, 2002

<sup>112</sup> Ord No. 16, §11, adopted December 5, 2002



- e. The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.
- f. The township board may borrow money and issue bonds or notes for refunding all or part of existing bond or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded, as calculated using a method approved by the department of treasury.
- g. The township board may finance the purchase of development rights by special assessments. A special assessment district may be established if both of the following requirements are met:
  - (1) A petition is filed with the township board containing all of the following:
    - i. A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.
    - ii. A description of the proposed special assessment district.
    - iii. The signatures of the owners of at least 66% of the land area in the proposed special assessment district.
    - iv. The amount and duration of the proposed special assessments.
  - (2) The township board specifies how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.
- h. All revenues for purchasing development rights on farmland and open space land shall be placed in a designated Development Rights Acquisition Fund to be hereafter created in the office of the Treasurer of Sharon Township (here and after "Acquisition Fund"). Money in such acquisition fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of Township money.
- i. The revenues and any interest received from the deposit or investment of such revenues shall be applied and used solely for the purposes set forth in this Ordinance.<sup>113</sup>

#### **Section 4.13 Appendix B.**

##### *Part I: Characteristics of the Farmland*

Type of Agricultural Land. In 1981, the Washtenaw County Metropolitan Planning Commission developed a system of ranking agricultural land the delineation utilized both physical and cultural factors to avoid having good soil characteristics become the sole criterion for determining the distribution of prime agricultural lands. In the study of Washtenaw County agriculture, land within the townships but outside the year 2000 sanitary sewer service area was divided into quarter sections (160 acres). This was

---

<sup>113</sup> Ord. No. 16, §12, adopted December 5, 2002

deemed most appropriate for a study at a county-wide scale. Public lands and other major areas committed to present use (e.g., the Chrysler Proving Grounds) were deleted from consideration of potential agricultural land.

Three categories of agricultural lands were utilized: essential, secondary and reserve. Six factors were used to select these agricultural lands. Three physical factors are related to soil characteristics and were derived from the Natural Resources Conservation Service (NRCS) Soil Survey of Washtenaw County. The remaining three factors have a cultural origin, which can change rapidly.

The three physical criteria included soils capable of producing 100 bushels of corn or more per acre where farmers practice good management techniques, soils with a Class II agricultural capability as determined by the NRCS and prime agricultural areas depicted on the 1980 NRCS map of Washtenaw County.

The three cultural criteria included existing farms that are well operated and viable as determined by personnel of the Michigan State University Extension Service and later supplemented by input from the county Agricultural Lands Committee, parcels of land that exceed 80 acres in size and farmlands whose owners have applied to enroll in the Michigan Farmland and Open Space Preservation Act program (P.A. 116).

Essential Agricultural Lands include all those with one of three physical criteria and which contain an existing farm that is well operated and viable.

Secondary Agricultural Lands also must contain one of the three physical criteria or contain a well operated farm plus have parcels of 80 acres or more or be enrolled in P.A. 116.

Reserve Agricultural Lands must also contain one of the three physical criteria or contain a well-operated farm.

Where more than 50 percent of a quarter section could be designated under one of these three agricultural land divisions, the entire 160 acres was given a particular classification.

Before the final map was completed, quarter sections that were designated in one of the three categories, but in which more than 50 percent of the land was in parcels smaller than 10 acres, were deleted. This comprised only a few cases, but the decision was based on the premise that viability of farms is limited where land ownership is highly fragmented.

While certainly much has changed in the 20 years since this process was completed, it still serves as a basis for making determinations on targets for agricultural land preservation today.

Qualification for a particular type of agricultural land will be determined by having a majority of the parcel offered for development rights purchase in that designation

Size of Parcel. According to the 1997 U.S. Census of Agriculture, the average size of all farms in Washtenaw County was 175 acres

Protected Land. Protected land is defined as that which is permanently protected through private or public means. Types of protected land include nature preserves, public park and recreation lands, lands restricted by conservation easement with land trusts and conservancies and other lands with development rights secured through purchase or donation.

#### *Part II: Stewardship of the Land*

Conservation Plans. In the absence of NRCS plans, the Farmland Preservation Board will determine the extent of conservation practices by consulting with experts in the field and other appropriate means.

Enrollment in P.A. 116. Michigan's Farmland and Open Space Preservation Act (P.A. 116 of 1974) enables a landowner to enter into a development rights agreement (for farmland) or a development rights easement (for open space) with the state. These agreements and easements are designed to ensure that the land remains in a particular use or uses for an agreed upon period. In return for maintaining the land in a particular use, the landowner is entitled to certain income or property tax benefits.

*Part III: Likelihood of Conversion to Nonfarm Use*

Percentage of Farm Containing Steep Slopes. Steep slopes are defined as those of greater than 12 percent.

*Part IV: Long Range Planning Considerations*

Scenic, Historical or Architectural Features.

- a. Vista: a broadly sweeping view including a variety of vegetation types (woodland, farm fields) combined with topographical variations. This view is visible from a major highway and/or rural road.
- b. Historical or Architectural: pre-Civil War houses and round barns are examples of this category.
- c. Accent: An attractive view but narrower in scope and weaker in impact than a vista
- d. No contribution: hidden or screened by man-made or natural features.

*Part V: Tiebreakers*

Matching Funds. Matching funds are defined as other financial contributions from private or public sources that could be applied to a property's application and result in a lower local cost for development rights purchase.

Market Value. Refers to an owner's willingness to accept an offer for development rights at a percentage lower than the full market value.<sup>114</sup>

---

<sup>114</sup> Ord. No. 16, Appendix B, adopted December 5, 2002

**Article 5. WETLANDS PROTECTION ORDINANCE<sup>115</sup>****Section 5.1 General.**

- a. Findings. The Board of Sharon Township finds that wetlands are indispensable and fragile resources that provide many public benefits, including maintenance of water quality through nutrient cycling and sediment trapping as well as flood and storm water runoff control through temporary water storage, slow release, and groundwater recharge. In addition, wetlands provide open space; passive outdoor recreation opportunities; fish and wildlife habitat for many forms of wildlife, including migratory waterfowl, and rare, threatened or endangered wildlife and plant species; and pollution treatment by serving as biological and chemical oxidation basins.

Preservation of the remaining Sharon Township wetlands is necessary to maintain hydrological, economic, recreational, and aesthetic natural resource values for existing and future residents of Sharon Township, and therefore Sharon Township Board declares a policy of no net loss of wetlands. Furthermore, Sharon Township Board declares a long-term goal of net gain of wetlands to be accomplished through review of degraded or destroyed wetlands in Sharon Township, and through cooperative work with landowners, using incentives and voluntary agreements to restore wetlands.

To achieve these goals, and with authority from Section 30307(4) of Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended MCL 324.30307(4) (hereinafter the Wetlands Protection Act), Sharon Township Board finds that local regulation of wetlands is necessary in Sharon Township. Pursuant to Article 4, Section 52 of the Constitution of the State of Michigan, the conservation and development of natural resources of the state is a matter of paramount public concern in the interest of the health, safety, and general welfare of the people. Sharon Township Board therefore finds that this Ordinance is essential to the long-term health, safety, and general welfare of the people of the Sharon Township, and to the furtherance of the policies set forth in Part 17, Michigan Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended MCL 324.1701 et. seq. (hereinafter the Michigan Environmental Protection Act) and the Wetlands Protection Act.

- b. Purpose. The purposes of this Ordinance are to provide for:
- (1) The protection, preservation, replacement, proper maintenance, restoration, and use in accordance with the character, adaptability, and stability of Sharon Township's wetlands, in order to prevent their pollution or contamination; minimize their disturbance and disturbance to the natural habitat therein; and prevent damage from erosion, siltation, and flooding.
  - (2) The coordination of and support for the enforcement of applicable federal, state, and county statutes, ordinances and regulations including but not limited to the Wetlands Protection Act, enforced by the Michigan Department of Environmental Quality which is hereinafter referred to as the MDEQ.
  - (3) Compliance with the Michigan Environmental Protection Act which<sup>1</sup> imposes a duty on government agencies and private individuals and organizations to prevent or minimize degradation of the environment which is likely to be caused by their activities.

---

<sup>115</sup> Adopted June 7, 2007, published June 21, 2007

- (4) The establishment of standards and procedures for the review and regulation of the use of wetlands.
  - (5) A procedure for appealing decisions.
  - (6) The establishment of enforcement procedures and penalties for the violation of this Ordinance.
  - (7) Creation of a board to assist in the protection of wetlands and to build public support for the values of wetlands.
- c. Construction and Application. The following rules of construction apply in the interpretation and application of this Section:
- (1) In the case of a difference of meaning or implication between the text of this Section and any caption or illustration, the text shall control.
  - (2) Particulars provided by way of illustration or enumeration shall not control general language.
  - (3) It is the intent of this ordinance to allow reasonable use of private property.
  - (4) Any ambiguities perceived in this ordinance are to be resolved by the entity administering the ordinance, in accordance with Section 5.7.
- d. Applicability to Private and Public Agency Activities and Operations. The provisions of this Ordinance, including wetlands use permit requirements and criteria for wetlands use permit approval, shall apply to activities and operations proposed by federal, state, local and other public agencies as well as private and public organizations and individuals except as may be exempt by law.

**Section 5.2 Definitions.**

- a. Definition of Terms. Terms not specifically defined shall have the meaning customarily assigned to them:
  - (1) “Contiguous” means any of the following:
    - i. A permanent surface water connection or any other direct physical contact with an inland lake or pond, a river or stream, one of the Great Lakes, or Lakes St. Clair.
    - ii. A seasonal or intermittent direct surface water connection to an inland lake or pond, a river or stream, one of the Great Lakes, or Lakes St. Clair.
    - iii. A wetland is partially or entirely located within five hundred (500') feet of the ordinary high water mark of an inland lake or pond or a river or stream or is within 1,000 feet of the ordinary high watermark of one of the Great Lakes or Lake St. Clair, unless it is determined by the MDEQ, pursuant to R. 281.924 of the administrative rules promulgated under the Wetlands Protection Act

(hereinafter Wetlands Administrative Rules), that there is no surface water or groundwater connection to these waters.

- iv. Two (2) or more areas of wetlands separated only by barriers, such as dikes, roads, berms, or other similar features, but with any of the wetland areas contiguous under the criteria described in Subsections (i)(ii) or (iii) of this definition.
- (2) "Electric distribution line" means underground lines below 30 kilovolts and lines supported by wood poles.
  - (3) "Electric transmission line" means those conductors and their necessary supporting or containing structures located outside of buildings that are used for transmitting a supply of electric energy, except those lines defined as an electric distribution line.
  - (4) "Fill material" means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.
  - (5) "Lot" means a designated parcel, tract, building site or other interest in land established by plat, subdivision, conveyance, condominium master deed, or as otherwise permitted by law, to be used, developed or built upon as a unit.
  - (6) "Minor drainage" includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.
  - (7) "Mitigation" shall mean:
    - i. methods for eliminating or reducing potential impact to regulated wetlands; or
    - ii. creation of new wetlands to offset unavoidable and permitted loss of existing wetlands.
  - (8) "Person" means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, and instrumentality or agency of this state, the federal government, or an instrumentality or agency of the federal government, or other legal entity.
  - (9) "Pipelines having a diameter of 6 inches or less" means a pipe which is equal to or less than what is commonly referred to as a 6-inch pipe and which has an actual measured outside diameter of less than 6.75 inches.
  - (10) "Sharon township board" shall mean the legislative body of Sharon Township.
  - (11) "Wetland" means land characterized by the presence of water a1 a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh and which is any of the following:
    - i. All wetlands subject to regulation by the MDEQ including wetlands:

1. Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or a stream.
  2. Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the MDEQ certifies to the commission it has substantially completed its inventory of wetlands in that county.
  3. Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the MDEQ determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.
- ii. Other wetlands subject to regulation by Sharon Township including:
1. Wetlands two (2) acres or greater in size, whether partially or entirely contained within the project site, which are not contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or a stream.
  2. Wetlands smaller than two (2) acres in size which are not contiguous to the Great Lakes or Lake St. Clair, a lake or pond, or a river or a stream, and are determined to be essential to the preservation of the natural resources of the Sharon Township as provided for in subsection 5.7.f of this Ordinance.
- (12)“Wetland consultant” shall mean a person or persons knowledgeable in wetland protection and delineation who is identified by Sharon Township to make wetlands determinations, to delineate wetlands, and to advise Sharon Township on wetland resource policy, education, and restoration. Any firm or individual appointed on a contractual basis.
- (13)“Wetland vegetation” means plants that exhibit adaptations to allow, under normal conditions, germination or propagation and to allow growth with at least their root systems in water or saturated soil.
- (14)“Wetlands administrator” shall mean a person(s) knowledgeable in wetlands protection, appointed by Sharon Township legislative body to administer this Ordinance and to carry out certain duties hereunder. Any firm or individual appointed on a contract basis.
- (15)“Wetlands board” shall mean the body of Sharon Township which makes decisions on wetlands use permit appeals and advises Sharon Township on wetlands resource policy, education and restoration.
- (16)“Wetlands map” refers to Sharon Township wetlands inventory map, based on the National Wetlands Inventory Map of the U.S. Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS) of the State of Michigan; the soils maps of the Soil Conservation Service, aerial photography, and onsite inspections. [community would explain here the sources of its map.]

(17)“Wetlands use permit” shall mean Sharon Township approval required for activities in wetlands described in Section 5.7 of this Ordinance.

**Section 5.3 Relationship to State and Federal Permit Requirements.** Whenever persons requesting a wetland use permit are also subject to state and/or federal permit requirements, the following shall apply:

- a. Sharon Township shall have jurisdiction for the regulation of wetlands under this Ordinance concurrent with the jurisdiction of the Michigan Department of Environmental Quality.
- b. Approvals under this Ordinance shall not relieve a person of the need to obtain a permit from the MDEQ and/or the U.S. Army Corps of Engineers, if required.
- c. Issuance of a permit by the MDEQ and/or the U.S. Army Corps of Engineers shall not relieve a person of the need to obtain approval under this Ordinance, if applicable.

**Section 5.4 Administration.**

- a. Sharon Township Wetlands Map. Sharon Township Wetlands Map is a guide to the location of wetlands in Sharon Township. The Wetlands Map shall be used in the administration of this Ordinance.

The Wetlands Map, together with all explanatory matter thereon and attached thereto, as may be amended through the Wetlands Verification and Delineation process, is hereby adopted by reference and declared to be a part of this Ordinance. The Wetlands Map shall be on file in the office of Sharon Township Clerk.

The Wetlands Map shall serve as a general guide for the location of wetlands. The Wetlands Map does not create any legally enforceable presumptions regarding whether property that is or is not included on the Wetlands Map is or is not a wetland.

The Wetlands Verification Process, as set forth herein, shall be used to verify wetlands on properties where wetlands are shown on the Wetlands Map or on properties where wetlands exist as defined in Section 5.2 herein. The Wetlands Delineation Process, as set forth herein, shall be used to establish the actual boundaries of wetlands in Sharon Township. The identification of the precise boundaries of wetlands on a project site shall be the responsibility of the applicant subject to review and approval by Sharon Township Wetland Consultant. Verification and delineation under this ordinance does not constitute a federal or state wetland jurisdiction or boundary decision.

(1) Wetlands Verification Process.

- i. Sharon Township or property owners of wetlands may initiate a verification of the areas shown on the Wetlands Map as wetlands or on properties where wetlands exist as defined in Section 5.2 herein. The verification shall be limited to a finding of wetlands or no wetlands by the Wetlands Administrator. The finding shall be based on, but not limited to, aerial photography, topographical maps, site plans, and field verification.
- ii. In the event that there is a finding of no wetlands on the property, then no further determination would be required
- iii. The applicant shall pay fees for the Wetlands Verification Process as established in subsection 5.9.a.



(2) Wetlands Delineation Process. Prior to the issuance of any permit or land development approval for a property which is shown to include wetlands on the Wetlands Map, the applicant may be required to provide a wetlands delineation to Sharon Township. The Wetlands Administrator, in consultation with the Wetland Consultant, shall determine whether a delineation is required, based on the proximity and relationship of the project to the wetlands. A delineation shall be required when a wetlands use permit is requested.

- i. To establish actual wetlands boundaries on a property, the applicant shall provide a survey or dimensional site plan, drawn at the scale required by Sharon Township's site plan review requirements, showing property lines, buildings and any points of reference along with the wetlands boundaries, according to one of the following:
  1. Wetlands delineation by the Michigan Department of Environmental Quality (MDEQ).
  2. Wetlands delineation by the applicant's wetlands consultant subject to review and approval by the Wetland Consultant.
- ii. Where a wetlands delineation is required by this Section, the Wetland Consultant shall establish wetlands boundaries following receipt of the above required information and after conducting a field investigation.
- iii. The applicant shall pay fees for the Wetlands Delineation Process as established in Section 5.9.

(3) Map Amendment.

- i. The Planning Commission shall make recommendations to Sharon Township Board for revisions to the Wetlands Map whenever new and substantial data for wetlands become available.
  - ii. Sharon Township shall insure that each record owner of property on the property tax roll shall be notified of any amendment to the Wetlands Map. The notice shall include the following information:
    1. Sharon Township Wetlands Map has been amended; the location to review the map;
    2. the owner's property may be designated as wetlands on the map;
    3. Sharon Township has an Ordinance regulating wetlands;
    4. the map does not necessarily include all of the wetlands within Sharon Township that may be subject to the Wetlands Ordinance.
- b. Wetlands Board. There is hereby created a Wetlands Board:
- (1) The Wetlands Board shall consist of five (5) residents of Sharon Township appointed by Sharon Township Board upon recommendation of the Planning Commission; four of whom shall have knowledge and experience in the areas of botany, soils, geology,

hydrology, or natural resources. One member of the Wetlands Board shall be a member of Sharon Township Board. The initial terms of appointment shall be as follows: 2 individuals for 3 years, 2 individuals for 2 years, and 1 individual for 1 year. Thereafter, appointments shall be for a term of three years. The term of Sharon Township Board representative to the Wetlands Board shall be concurrent with the term of office.

- (2) The Wetlands Board shall establish rules of procedure.
- (3) The Wetlands Board is authorized to undertake activities to protect wetlands including the following:
  - i. Conduct public hearings and review appeals of wetland s use permit, mitigation, and/or restoration decisions made by the Wetlands Administrator, the Planning Commission or Sharon Township Board.
  - ii. Serve in an advisory role in setting policy guidelines on wetlands issues in the Sharon Township.
  - iii. Identify conflicts between wetlands protection and present Sharon Township ordinances, Sharon Township operating procedures, and Sharon Township activities.
  - iv. Provide recommendations and assist in map administration.
  - v. Coordinate with the Michigan Department of Environmental Quality in keeping up-to-date on issues affecting wetlands protection.
  - vi. Recommend a program to protect and acquire important wetlands through tax incentives, donation, development rights, easements, land exchange, purchase, and other means.
  - vii. Develop education programs for the public and for Sharon Township schools. The program should promote the values of wetlands and awareness of the hazards and threats to wetlands. The program should be particularly targeted to landowners with wetlands and emphasize how best to protect wetlands values on their property.
  - viii. Develop an adopt-a-wetlands program for interested citizens to participate more directly in preservation of specific wetlands.
  - ix. Review degraded or destroyed wetlands in Sharon Township for possibility of rehabilitation or restoration.
- (4) Members of the Wetlands Board shall receive a stipend as determined from time to time by resolution of Sharon Township Board.
- (5) Sharon Township Board has sole and exclusive discretion for removal of members of the Wetlands Board with or without a hearing:

**Section 5.5 Activities in Wetland.**

- a. Activities Prohibited Without First Obtaining A Wetlands Use Permit. Except as otherwise provided by subsection 5.5.b, it shall be unlawful for any person to do any of the following in a

- wetland unless and until a wetlands use permit is obtained from Sharon Township pursuant to this Ordinance.
- (1) Deposit or permit the placing of fill material in a wetland.
  - (2) Dredge, remove or permit the removal of soil or minerals from a wetland.
  - (3) Construct, operate or maintain any use or development in a wetland.
  - (4) Drain surface water from a wetland.
- b. Activities Not Requiring A Permit. Notwithstanding the prohibitions of subsection 5.5.a, the following uses are allowed in a wetland without a wetlands use permit, unless otherwise prohibited by statute, ordinance or regulation:
- (1) Fishing, trapping, or hunting.
  - (2) Swimming or boating.
  - (3) Hiking.
  - (4) Grazing of animals.
  - (5) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for food production, fiber, and forest products, or upland soil and water conservation practices. Wetlands altered under this subsection shall not be used for a purpose other than a purpose described in this subsection without a permit from Sharon Township.
  - (6) Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to the Wetlands Protection Act or former Act No. 203 of the Public Acts of 1979.
  - (7) Construction or maintenance of farm or stock ponds.
  - (8) Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products:
    - i. An existing private agricultural drain.
    - ii. That portion of a drain legally established pursuant to the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes.
    - iii. A drain constructed pursuant to other provisions of the Wetlands Protection Act or former Act No. 203 of the Public Acts of 1979.
  - (9) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

- (10) Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in the Wetlands Protection Act, wetland improved under this subdivision after October 1, 1980 shall not be used for nonfarming purposes without a permit from Sharon Township. This subdivision shall not apply to a wetland which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland that the MDEQ has determined by clear and convincing evidence to be a wetland that is necessary to be preserved for the public interest, in which case a permit is required.
- (11) Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.
- (12) Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of 6 inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- (13) Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- (14) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to the Wetlands Protection Act Former Act No. 203 of the Public Acts of 1979.
- (15) Construction of iron and copper mining tailings basins and water storage areas.
- (16) An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this ordinance.
- (17) A wetland that is incidentally created as a result of one or more of the following activities is not subject to regulation under this ordinance:
- i. Excavation for mineral or sand mining, if the area was not a wetland before excavation. This exemption does not include a wetland on or adjacent to a water body of 1 acre or more in size.
  - ii. Construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.
  - iii. A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

**Section 5.6 Application.** Application for approval, appeal, and issuance of wetlands use permits shall be concurrent with the application for approval, appeal, and issuance of other necessary Sharon Township approvals. The applicant for a wetland use permit shall submit four copies of the following to the Sharon Township:

- a. An application completed in full, on a form supplied by the Michigan Department of Environmental Quality, together with any supplemental information necessary relative to isolated wetlands under 2 acres.
- b. A wetlands delineation including, but not limited to the following information: dominant tree, sapling, shrub and herb vegetation; presence or lack of accepted wetland hydrology indicators; analysis of soil including a description of the soil profile to at least 20 inches and comparison to [county] County Soil Survey, and plan views of the wetland(s) delineated. Plan views shall be represented in a manner that allows comparison to the Wetlands Map.
- c. Soil drainage and stormwater management plans.
- d. A mitigation plan, if the proposed activity will result in the loss of wetland resources. In order to adequately review a proposed mitigation plan, the following information shall be provided to Sharon Township:
  - (1) A brief overview of the plan including the short-range and long-range objectives for vegetation, hydrology, grading, and monitoring.
  - (2) A schedule of all mitigation activities, including coordination with other local and state agencies, if applicable.
  - (3) A planting plan and plant list for the area(s) to be established. The use of native plants characteristic of local conditions is encouraged. Species should be selected based on the need for wildlife, restoration, landscaping, and recovery. The Sharon Township Building Department shall, in consultation with knowledgeable persons, maintain and update a list of botanical species that are considered invasive. Mitigation activities shall be performed without the use of invasive species.
  - (4) A grading and soil erosion control plan including existing and proposed conditions.
  - (5) A description of all soils and materials to be used including their approximate volumes and origin.
  - (6) Hydro-geological information sufficient to determine the site's suitability for the mitigation.
  - (7) Construction detail drawings for planting, soil erosion control, stabilization, water conveyance, and all other items necessary to facilitate the review.
- e. A cover letter signed by the applicant including the following information:
  - (1) Name, address, and phone number of applicants.
  - (2) Name of project and brief description (one sentence).
  - (3) Date upon which the activity is proposed to commence.

- (4) Explanation of why the project meets the wetlands use permit standards and criteria contained in this Ordinance.
  - (5) List of all federal, state, county or other local government permits or approvals required for the proposed project including permit approvals or denials already received. In the event of denials, the reasons for denials shall be given. Attach copies of all permits that have been issued.
  - (6) Identification of any present litigation involving the property.
  - (7) Size of total wetland, size of affected wetland and cubic yards of fill.
- f. For a wetlands use permit approval required in conjunction with a site plan, plat or other proposed land use, the applicant shall at the time of application elect to have the application processed under either subsection (1) or (2) below:
- (1) The wetlands use permit application shall be reviewed either prior to or concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant. Sharon Township will need to complete the review within the 90-day review period limitation pursuant to the Wetlands Protection Act. However, the land use review may not be completed at the time the decision is rendered on the wetlands use permit application. Therefore, election of this alternative may require a reopening of the wetlands use permit application if the land use approval is inconsistent with the wetlands use permit approval; or,
  - (2) The wetlands use permit application shall be reviewed and acted upon concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, and the 90-day review period limitation specified in the Wetlands Protection act shall thereby be extended accordingly.
- g. Copies of wetland permit applications filed with the MDEQ and forwarded to the Sharon Township in accordance with Section 30307(6) of Wetlands Protection Act shall become part of the application for a Sharon Township wetland use permit.
- h. An Application shall not be considered properly received by Sharon Township, nor shall the 90-day review period limitation specified in the Wetlands Protection Act commence until all information required by this section has been submitted.

**Section 5.7 Review.**

- a. Method of Review of Wetlands Use Permit Application.
- (1) Whenever a wetlands use permit is required, applicant may request an administrative meeting with the Wetlands Administrator to review the proposed activity in light of the purposes of this Ordinance.
  - (2) Upon receipt of an application, Sharon Township shall insure that all required information including a wetlands delineation has been submitted. The receipt of the application shall constitute permission from the owner to complete an on-site investigation. Applicant will pay fees as established in subsection 5.9.a.
  - (3) Sharon Township Clerk shall transmit one copy of the application and supporting materials to Sharon Township Wetland Consultant to confirm the boundaries of the

wetland and to review the proposal in light of the purpose and review standards of Section 5.7 and other applicable sections of this Ordinance.

- (4) The Wetland Consultant shall prepare and transmit a report and recommendation to the Wetlands Administrator documenting the review required by subsection 5.7.a (3).
  - (5) Upon receipt of an application, Sharon Township Clerk shall:
    - i. Transmit one copy of the application, along with any state fees received, to the MDEQ.
    - ii. Cause to be published a notice of the application and the date and time for submission of written public comments in a newspaper of general circulation in the Sharon Township, except for activities proposed on a single-family lot.
    - iii. Advise the applicant of his/her obligation to post the subject property with a sign that shall be no less than ten (10) square feet in size. The sign shall be clearly visible from the abutting street(s) and shall state that an application has been filed for a wetland use permit on the property.
- b. Wetlands Use Permit Decisions by the Wetlands Administrator. The following process shall apply to wetlands use permit decision by the Wetlands Administrator:
- (1) For wetlands use permit applications submitted in conjunction with activities that do not require approval by the Planning Commission and/or Sharon Township Board, the Wetlands Administrator shall approve, approve with modifications, or deny the application within 90 days after receipt of an application. If the Wetlands Administrator does not make a final determination on the application within ninety (90) days after receipt of a complete application, then the permit application shall be considered approved, except where the 90-day limit has been extended pursuant to subsection 5.6.f(2).
  - (2) Persons wishing to comment on the application must submit their comments in writing to the Wetlands Administrator prior to the date and time set in the notice.
  - (3) Persons wishing to receive notice of the Wetlands Administrator's decision must submit a written request to the Wetlands Administrator.
- After completing the review and reviewing the written comments, the Wetlands Administrator shall approve, approve with modifications or conditions, or deny the wetlands use permit application in accordance with the standards of this Ordinance. The denial of a permit shall be accompanied by a written statement of all reasons for the denial. The Wetlands Administrator shall report the decision to the Wetlands Board, Sharon Township Planning Commission and Sharon Township Board, and the MDEQ.
- (4) When a wetlands use permit is approved, approved with modifications, or denied, written notice shall be sent to the applicant and to all persons who have requested notice of the Wetlands Administrator's decision.
- c. Wetlands Use Permit Decisions by Planning Commission or Sharon Township Board. The following process shall apply to wetlands use permit decisions by Sharon Township Planning Commission or by Sharon Township Board:

- (1) Wetlands use permit applications submitted in conjunction with a related land development activity shall be decided by the same entity that decides the related land development activity. The Wetlands Administrator shall transmit application materials and the report and recommendation prepared by the Wetland Consultant to the Planning Commission or Sharon Township Board as applicable.
  - (2) After review and study of the application materials, the Wetland Consultant's report and recommendation, Sharon Township Planning Commission or Sharon Township Board as applicable may hold one public hearing after publication in a newspaper of general circulation in Sharon Township not less than ten (10) days nor more than sixty (60) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing and the place and time the proposed wetlands use permit may be examined. The wetlands use permit hearing may be held in conjunction with a review of the related land use requests.
  - (3) In the event of a public hearing, notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered, and to all owners of property, as listed on the most recent tax roll, within 600 feet of the boundary of the property in question. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit shall receive notice. In the case of a single structure containing more than four (4) dwelling units, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. A notice containing the time, date, place and purpose of the hearing shall be posted on the subject property at least eight (8) days prior to the hearing. The posting sign shall be no less than ten (10) square feet in size, shall be clearly visible from the abutting street(s), and shall state that an application has been filed for a wetlands use permit.
  - (4) After completing the review, the Planning Commission or Sharon Township Board, as applicable, shall approve, approve with modifications, or deny the application within ninety (90) days after receipt of a complete application, in accordance with this Ordinance. If Sharon Township Planning Commission or Sharon Township Board, as applicable, does not make a final determination on the application within ninety (90) days after receipt of a complete application, then the permit application shall be considered approved, except where the 90-day limit has been extended pursuant to subsection 5.6.f.2.
  - (5) Written notice shall be sent to the applicant and the MDEQ upon approval, approval with modifications, or denial of a wetlands use permit by Sharon Township. The denial of a permit shall be accompanied by a written statement of all reason for denial.
- d. Appeals of Decisions of The Wetlands Administrator, Planning Commission, or Board. The following process shall apply to appeals of decisions made by the Wetlands Administrator, the Planning Commission, or Sharon Township Board as applicable:
- (1) Any person who is aggrieved by the approval, approval with modifications, or denial of a wetlands use permit by the Wetlands Administrator, the Planning Commission, or by the Sharon Township Board, may appeal the decision to the Wetlands Board. A written letter containing the specific reasons for appeal shall be filed with Sharon Township Clerk within ten (10) calendar days after the date of the decision to be appealed. Timely filing of an appeal shall have the effect of suspending the effect of the permit pending the



outcome of the appeal. In the event that the person(s) filing the appeal do not own property within 600 feet of the wetland affected, the Planning Commission shall determine whether the person(s) are aggrieved.

- (2) Standard of Review. Based upon the record, in considering the appeal, the Wetlands Board shall affirm the original decision unless it finds an abuse of discretion by the entity deciding the wetlands use permit.
- (3) After a hearing, the Wetlands Board shall determine that the decision of the Wetlands Administrator, Planning Commission, or Sharon Township Board be affirmed, affirmed with modification, or reversed. The Wetlands Board's decision shall be based on written findings.

e. Wetlands Use Permit Conditions.

- (1) The Wetlands Administrator, the Planning Commission, or Sharon Township Board, as applicable, shall attach any reasonable conditions considered necessary to ensure that the intent of this Section will be fulfilled, to minimize or mitigate damage or impairment to, encroachment in or interference with nature resources and processes within the wetlands, or to otherwise improve or maintain the water quality. Any conditions related to wetland mitigation shall follow the provisions of Section 5.8 of this Ordinance.
- (2) The Wetlands Administrator, the Planning Commission, or Sharon Township Board, as applicable, shall fix a reasonable time to complete the proposed activities.
- (3) If the Wetlands Administrator, the Planning Commission, or Sharon Township Board, as applicable determines that there is a potential for adverse impacts to wetlands not authorized by the wetlands use permit or off-site property, they will require the applicant to file with Sharon Township a cash bond or irrevocable bank letter of credit in an amount, estimated by the Wetland Consultant to be required to address those impacts.
- (4) A wetland use permit shall be conditioned upon compliance with all other requirements of ordinance and law, including site plan, plat or land use approval as applicable, and issuance of a permit by the MDEQ, if required under the Wetlands Protection Act. In cases where a MDEQ permit allows activities not permitted by the wetlands use permit approval granted under this Section, the restrictions of the approval granted under this Section shall govern.
- (5) Wetlands use permits for seasonal operations need not be renewed annually unless otherwise stated in the permit.
- (6) Any change that materially increases the size or scope of the operation and that affects the criteria considered in approving the permit as determined by the Wetlands Administrator, the Planning Commission, or Sharon Township Board, as applicable, shall require the filing of a new wetlands use permit application.
- (7) Any temporary, seasonal, or permanent operation that is discontinued for two (2) years or two (2) seasons shall be presumed to have been abandoned and the wetlands use permit automatically voided.

- (8) Any permit granted under this Ordinance may be revoked or suspended by the Planning Commission or Sharon Township Board, as applicable, after notice and an opportunity for a hearing, for any of the following causes:
- i. A violation of a condition of the permit.
  - ii. Misrepresentation or failure to fully disclose relevant facts in the application.
  - iii. A change in a condition that requires a temporary or permanent change in the activity.
- (9) An applicant who has received a wetland use permit under this Ordinance shall comply with the following in connection with any construction or other activity on the property for which the wetlands use permit has been issued:
- i. Maintain soil erosion control structures and measures, including but not limited to, silt fences, straw bale berms, and sediment traps. The permittee shall provide for periodic inspections throughout the duration of the project.
  - ii. Maintain clear delineation of the wetlands (so marked by the Wetlands Administrator or Wetland Consultant during the on-site inspection) so that such locations are visible to all construction workers.
  - iii. Post on the site, prior to commencement of work on the site and continuing throughout the duration of the project, a copy of the approved wetlands use permit containing the conditions of issuance, in a conspicuous manner such that the wording of said permit is available for public inspection.
- (10) The wetlands use permit shall remain effective for a time period coincidental with any other land use permit reviewed and approved concurrent with the wetlands use permit. If applied for prior to the expiration date and concurrent with the expiring land use permit, the applicant may be granted an extension that corresponds to additional time granted for the underlying land use permit. Extensions shall be approved by the same person or body that made the original decision. The maximum number of extensions shall coincide with the maximum number allowed for the underlying land use permit.
- (11) When there is no other activity or permit involved, the wetlands use permit shall remain effective for one (1) year. A maximum of a one (1) year extension may be approved.
- f. Regulation Criteria for Non-Contiguous Wetlands Less Than (2) Two Acres in Area.
- (1) A wetland use permit shall be approved with respect to a non-contiguous wetland less than two (2) acres in area unless the Planning Commission or Sharon Township Board determines that the wetland is essential to the preservation of the natural resources of the Sharon Township. It shall not be the burden of the property owner to prove that the wetland is not essential to the preservation of the natural resources of the community.
  - (2) All non-contiguous wetland areas of less than two (2) acres which appear on the Wetlands Map, or which are otherwise identified during a field inspection by the Sharon Township, shall be analyzed for the purpose of determining whether such areas are essential to the preservation of the natural resources of Sharon Township. If there is to be a denial of a wetlands use permit in a non-contiguous wetland area of less than two

(2) acres, then, on the basis of data gathered by or on behalf of Sharon Township, findings shall be made in writing and given to the applicant stating the basis for the determination that such wetland is essential to preservation of the natural resources of Sharon Township. In order to make such a determination, there shall be a finding that one (1) or more of the following exist within such wetland:

- i. The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Section 36505 of Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
- ii. The site represents what is identified as a locally rare or unique ecosystem.
- iii. The site supports plants or animals of an identified local importance.
- iv. The site provides groundwater recharge documented by a public agency.
- v. The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland,
- vi. The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
- vii. The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
- viii. The site provides pollution treatment by serving as a biological and chemical oxidation basin.
- ix. The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
- x. The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.

(3) In connection with the determination whether the wetland is essential to the preservation of the natural resources of Sharon Township, the property owner shall make an election and response under subsection i or ii below, relative to each non-contiguous wetland area less than two (2) acres.

- i. In lieu of having Sharon Township or its Wetland Consultant proceed with the analysis and determination, the property owner may acknowledge that one (1) or more of the criteria in subsections 5.7.f (2) i through x above, exist on the wetland in question, including a specification of the one or more criteria which do exist; or
- ii. An election to have Sharon Township or its Wetland Consultant proceed with the analysis of whether each of the criterion in subsections 5.7.f (2) i through x above exist or do not exist in the wetland in question, including specific reasons for the conclusion in respect to each criteria.

- (4) If Sharon Township determines that the wetland is not essential to the preservation of the natural resources of Sharon Township, Sharon Township's decision shall be so noted on the Wetland Map, at the time it is amended. The requested activity shall be approved subject to all other applicable laws and regulations.
- (5) If Sharon Township determines that the wetland is essential to the preservation of the natural resources of Sharon Township, and Sharon Township has found that one or more of the criteria set forth exist at the site, Sharon Township shall notify the applicant in writing stating the reasons for determining the wetland to be essential to the preservation of the natural resources.

After determining that a wetland less than two (2) acres in size is essential to the preservation of the natural resources of Sharon Township, the wetland use permit application shall be reviewed according to the standards in subsection 5.7.g.

- g. Review Standards for Wetlands Use Permits. The criteria to evaluate wetlands use permits under this Ordinance and to determine whether a permit is granted are as follows:

- (1) A permit for any activity listed in subsection 5.5.a shall not be approved unless the Sharon Township determines that the issuance of a permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.

In determining whether the activity is in the public interest, the benefit that reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect the national, state, and local concern for the protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

- i. The relative extent of the public and private need for the proposed activity.
- ii. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
- iii. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetlands provide.
- iv. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
- v. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
- vi. The size of the wetland being considered.
- vii. The amount of remaining wetland in the general area.
- viii. Proximity to any waterway,
- ix. Economic value, both public and private, of the proposed land change to the general area.

- x. Findings of necessity for the proposed project that have been made by federal or state agencies.
- (2) A wetlands use permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria set forth in Section 30302 of the Wetlands Protection Act and Subsection A of this section shall be considered. A permit shall not be issued unless the applicant also shows either of the following:
- i. The proposed activity is primarily dependent upon being in the wetland.
  - ii. A feasible and prudent alternative does not exist.

**Section 5.8 Wetland Mitigation.**

- a. Findings That Wetland Loss Is Unavoidable. Mitigation shall not be considered a substitute for making all prudent attempts to avoid wetland impacts.

(1) Prior to considering a proposal for wetland mitigation, the Wetlands Administrator, the Planning Commission or Sharon Township Board, as applicable shall make all of the following findings:

  - i. That all feasible and prudent efforts have been made to avoid the loss of wetland.
  - ii. That all practical means have been considered to minimize wetland impacts.
  - iii. That it is practical to replace the wetland which will be unavoidably eliminated.
  - iv. That all alternatives for preserving wetlands have been evaluated and found to be impractical, inappropriate, or ineffective.

(2) To ensure no net loss of wetlands in Sharon Township, mitigation shall be required in instances where there are losses of wetland resources and where the Wetlands Administrator, the Planning Commission or Sharon Township Board, as applicable have made the findings required in subsection 5.8.a.(1).
- b. Criteria for Approving Proposals for Wetland Mitigation. If the Wetlands Administrator, Planning Commission or Sharon Township Board, as applicable, determines that it is practical to replace the wetlands that will be impacted, mitigation plans shall be approved only if all of the following criteria are met:

(1) That the mitigation plan provides for the substantial replacement of the predominant functional values of the wetland to be lost. Mitigated wetlands shall be replaced at a minimum of 1.5 new acres of wetland to 1 lost acre. A larger replacement ratio may be required if the lost wetlands are deemed to have exceptional value.

(2) That the mitigation plan provides for no net loss of wetland resources unless the Wetlands Administrator, the Planning Commission or Sharon Township Board, as applicable determines that the net loss will result in a minimum negative impact upon wetlands, and attendant natural resources under all of the circumstances.

- (3) Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, then mitigation in the immediate vicinity, within the same watershed, of the permitted activity may be considered. Only if all of these options are impractical shall mitigation be considered elsewhere.
  - (4) The mitigation plan will comply with all applicable federal, state, and local laws.
  - (5) A plan to monitor preserved and replacement wetlands over a minimum of five years has been specified. The plan shall include the following information:
    - i. Schedule and list of activities to be contracted and conducted related to the site's hydrology, including sub-surface and surface water for a period of at least five years. A report and recommendation on the hydrologic conditions of the site should be submitted to Sharon Township annually.
    - ii. Schedule and list of activities to be contracted and conducted related to the site's plant establishment and control of invasive exotic species for a period of at least five years. A report and recommendation on the plant establishment of the site should be submitted to Sharon Township annually.
    - iii. To assure that the objectives established in the mitigation plan are successful, the monitoring plan should indicate the mechanisms necessary to execute the recommendations from the annual reports and provide for additional monitoring after the five-year period.
- c. Other Mitigation Requirements.
- (1) Wetland mitigation and monitoring plans shall become conditions to the wetlands use permit and shall be the responsibility of the applicant.
  - (2) Financial assurances that mitigation is accomplished as specified by the permit condition may be required by Wetlands Administrator, Planning Commission or Sharon Township Board, as applicable.
  - (3) Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule can be agreed upon between the Wetlands Administrator, Planning Commission or Sharon Township Board, as applicable, and the applicant.
  - (4) Wetland mitigation plans that create less than two (2) acre wetlands shall be designed and constructed to meet one of the conditions listed in subsections 5.7.f (2) i through x.

#### **Section 5.9 Fees, Penalties and Enforcement.**

- a. Fees. Applications for a wetlands use permit under this Section shall be accompanied by a nonrefundable administrative application fee in an amount specified from time to time by resolution of Sharon Township. In addition, an applicant shall pay an escrow fee in an amount determined from time to time by resolution of Sharon Township Board for the estimated cost of outside consultant(s) who may be retained by Sharon Township in connection with the review of the application. In the event the cost of the services of the

consultant(s) is less than the escrow fee, the applicant shall be refunded the balance. In the event the cost of the services of the consultant(s) exceeds the amount of the escrow fee, the applicant shall provide to the Sharon Township and additional escrow amount equivalent to no less than one-half (1/2) the original escrow amount. All review of the wetlands use permit application shall cease until such additional escrow amount is deposited with Sharon Township, and the number of days during which all review of the wetlands use permit application is ceased shall be deducted from the time limits within which Sharon Township would otherwise act upon the application. In the event the cost of the services of the consultant(s) is less than the subsequent escrow fee(s), the applicant shall be refunded the balance. A denial of an application for a wetlands use permit shall not affect the applicant's obligation to pay the fees provided for in this Section.

b. Penalties and Enforcement.

(1) Penalties

- i. If, on the basis of information available to Sharon Township, Sharon Township finds that a person is in violation of this Ordinance or of a condition set forth in a permit, Sharon Township shall issue an order requiring the person to comply with the prohibitions or conditions, or Sharon Township shall take such enforcement action as it deems appropriate.
  1. If a person acts in violation of this ordinance Sharon Township may issue a stop work order on construction or shall refuse a certificate of occupancy or other construction permits related to the project whenever there is a failure to comply with the provisions of this Ordinance.
  2. An order issued under subsection 5.9.b(1) shall state with reasonable specificity the nature of the violation and shall specify a time for compliance, not to exceed 30 days, which Sharon Township determines is reasonable, taking into account the seriousness of the violation and good faith efforts to comply with acceptable requirements.
- ii. A person who violates any provision of this Ordinance shall be responsible for a civil infraction for which the court may impose a civil fine of not less than \$500.00 nor no more than \$10,000 per day of violation. Each day that a violation remains shall constitute a separate violation of this Ordinance. Additionally, a person who violates any provision of this Ordinance shall reimburse Sharon Township for any and all costs, direct or indirect, which Sharon Township has incurred in connection with any such violation.
- iii. In addition to the penalties provided in this ordinance, any person who violates this Ordinance may be ordered by the Township and/or a court of competent jurisdiction to restore as nearly as possible the wetland affected by the violation to its original condition immediately in addition to any other orders and remedies permitted by law. The restoration may include the removal of fill material deposited in a wetland or the replacement of soil, sand, minerals, or plants. <sup>116</sup>

---

<sup>116</sup> Amended February 4, 2021. Effective February 18, 2021.

(2) Injunction. Any activity conducted in violation of this section is declared to be a nuisance *per se*, and Sharon Township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation, and/or requiring restoration of the wetland as nearly as possible to its condition before the violation.

c. Reporting and Record Keeping.

(1) Any citizen observing what he or she believes or suspects may be an instance of noncompliance with the provisions of this Ordinance may report the observation to any official or employee of Sharon Township.

(2) Any report received pursuant to Subsection a of this Section shall be forwarded immediately to the Sharon Township Ordinance Officer and Sharon Township Clerk.<sup>117</sup>

(3) Sharon Township Ordinance Officer Duties

- i. Sharon Township Ordinance Officer shall inspect the site of the suspected noncompliance as soon as is reasonably practical, but in no case later than the close of business five (5) business days after receiving the report.
- ii. Sharon Township Ordinance Officer shall complete an entry for the report into the Compliance Docket.
- iii. Sharon Township Ordinance Officer may enlist the expertise of the Wetlands Administrator if necessary, to determine whether a violation of this Ordinance has occurred.
- iv. Sharon Township Ordinance Officer shall take any actions within his or her authority necessary to ensure this Ordinance is enforced.

(4) Compliance Docket. Sharon Township Ordinance Officer shall maintain a Compliance Docket at the Township Office. The Docket shall be used to identify all properties or uses of properties which have been evaluated for compliance with this Ordinance. The Docket shall be available to the public upon demand during normal business hours. The Docket shall contain the following information:

- i. Date: the date the Docket entry was initiated.
- ii. Address/Location of Property: the street address, if available, or descriptive text or vicinity map sufficient to enable citizens to identify the property in question
- iii. Permit or Docket Number: If it has been determined that the use being made of the property does not require a wetlands use permit from Sharon Township, a Docket number shall be assigned. Otherwise, the Permit number shall be maintained.
- iv. Compliance Status: A record shall be made of whether the use being made of the property is in compliance with the provisions of this Ordinance, the

---

<sup>117</sup> Amended February 4, 2021. Effective February 18, 2021.



date the determination was made, and the name(s) of Sharon Township official and/or consultant who made the determination.

v. Sidwell property number.

(5) Violation Docket. Sharon Township Ordinance Officer shall maintain a Violation Docket at the Sharon Township Office. The Docket shall be used to track the status of violations of this Ordinance. The Violation Docket shall contain the following information, as it becomes available:

- i. Date: the date the Docket entry was initiated
- ii. The permit or Docket number: This number shall be the same number as is used to identify the property in the Compliance Docket.
- iii. Address/Location of property: The street address, if available, or descriptive text or vicinity map sufficient to enable citizens to identify the property in question.
- iv. Nature of violation.
- v. Date violation confirmed.
- vi. Name of person confirming the violation.
- vii. Enforcement action taken.
- viii. Date of enforcement action taken.
- ix. Outcome of enforcement action: If outcomes are appealed by the property owner or any other party, each appeal shall be noted, and its outcome shall also be noted under this heading.

**Section 5.10 State Notification.** Sharon Township shall notify the MDEQ of the adoption of this Ordinance. Sharon Township shall cooperate with the MDEQ in the enforcement of the Wetlands Protection Act as to wetlands under the MDEQ's jurisdiction as defined under this Ordinance.

**Section 5.11 Ordinance Conflict.** Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes on the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with and in addition to relevant state regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such finding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force. Rights and duties that have matured, penalties which have been incurred, proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.<sup>118</sup>

---

<sup>118</sup> Amended February 4, 2021. Effective February 18, 2021.

**Section 5.12 Property Tax Assessment.** If a wetland use permit is denied by Sharon Township, a landowner may appear at the annual Board of Review for the purpose of seeking a re-valuation of the affected property for assessment purposes to determine its fair market value under the use restriction.

**Article 6. OIL AND GAS ANCILLARY ACTIVITIES<sup>119</sup>**

**Section 6.1 Title.** This ordinance shall be known and cited as the Sharon Township Oil and Gas Ancillary Activities Ordinance.

**Section 6.2 Definitions.**

- a. "Ancillary activities" means any supporting activity undertaken within an enterprise in order to create the conditions within which the principal or secondary activities can be carried out; ancillary activities generally produce services that are commonly found as inputs into almost any kind of productive activity and the value of an individual ancillary activity's output is likely to be small compared with the other activities of the enterprise (e.g., the cleaning and maintenance of equipment and facilities, etc.) Ancillary activities as used in this Ordinance includes but is not limited to product and waste storage and transportation, and the use of public infrastructure, natural and cultural resources, and rights of way for oil and gas exploration and development supplemental to permitted activities under Part 615 of NREPA, P.A. 451 of 1994, as amended, MCL 324.101 et seq.
- b. "Applicant" means an individual, firm, company, corporation or government authority created by statute, that seeks a certificate of compliance related to the activities regulated by this Ordinance.
- c. "Contaminated liquid" includes, but is not limited to, any contaminated water, waste water, liquid industrial waste, crude oil/brine, chemical mixture with water or any other fluid or liquid.
- d. "Immediate" means within one (1) hour of receipt of knowledge of a release or suspected release.
- e. "Oil and gas activities" means acts involved in the exploration for, or development, production, storage, handling, transportation or handling of petroleum, natural gas or both and ancillary activities.
- f. "Operator" means an individual that conducts and/or has control or authority over oil or gas exploration/development and/or ancillary activities on-site or off-site and is the holder of a certificate of compliance.
- g. "Site" means the location of an oil and/or natural gas drilling, exploration, development or production operation and surface facilities as defined by the Supervisor of Wells Act, P.A. 615 of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended and its administrative rules R324.61501 et seq.

**Section 6.3 Findings.**

- a. Sharon Township is a community with significant environmentally sensitive areas that is entirely reliant upon groundwater for drinking water supplies, located at the headwaters of Mill Creek and near the headwaters of the Raisin River, home to approximately sixty (60) lakes and ponds, and approximately two thousand seven hundred (2,700) acres of wetlands; and contains unique cultural and natural features such as woodlands, active farmland, wildlife habitats, trails, public parks and other environmentally sensitive areas.
- b. The development of innovative methods of gas and oil exploration and extraction, such as directional drilling and high-volume hydraulic fracturing, has resulted in oil and gas

---

<sup>119</sup> Adopted May 4, 2017

- development activities appearing in areas that traditionally have not been areas subject to oil and gas activities, such as in close proximity to populated areas in Michigan Townships.
- c. Residents in towns and cities across the nation and in Michigan have experienced the adverse secondary impacts of oil and gas activities where oil and gas development activities have occurred near or adjacent to residential property.
  - d. The adverse secondary impacts of gas and oil exploration and extraction experienced by residents living nearby or adjacent to the oil and gas development activities include but are not necessarily limited to obnoxious odors and lights; excessive noise; air, soil and water contamination; contaminated drinking wells; excessive dust, traffic and debris; off pad soil erosion; local road deterioration; and wildlife habitat impacts, all adversely affecting the residential quality of life and natural resources of the community.
  - e. Based on recent experiences in Michigan Townships, it is recognized that state statutes and regulations do not adequately protect the health, safety and welfare of Township residents, local natural resources, and the community from the adverse secondary impacts of oil and gas ancillary activities, thereby necessitating local regulation of such impacts by Sharon Township under its police powers and zoning authority, where applicable.
  - f. The state Constitution and statutes authorize the Township to adopt local regulations to protect the public health, safety and welfare of its residents; to regulate activities that cause nuisances; to regulate activities of industries that impede upon others' quality of life, property values, and health, safety and welfare; and to protect and preserve natural resources of the community.
  - g. Federal, state and local laws impose a substantive duty on the Township pursuant to its police powers and authority to prevent or minimize the degradation of the air, water and local natural resources held in the public trust.
  - h. Convincing evidence of the adverse secondary impacts of oil and gas have been presented to the Township Board in public meetings, hearings, in articles, from experiences of neighboring communities, and studies, reports and court cases made available to the Township Board.
  - i. It is an established legal principal that a municipality may rely on studies, reports, and experiences and evidence generated by other communities of the adverse secondary impacts of certain establishments, so long as whatever evidence that the municipality relies upon is reasonably believed to be relevant to the problem that the municipality addresses. *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41.
  - j. The courts have recognized that an ordinance furthers a substantial government interest by regulating adverse secondary impacts of certain establishments. *City of L.A. v. Alameda Books, Inc.*, 535 U.S. 425.
  - k. Based on the foregoing, the Township Board finds:
    - (1) The documentation demonstrates that oil and gas exploration, extraction and development and ancillary activities are an industrial activity that is associated with a wide variety of adverse secondary impacts including, but not limited to:
      - i. Deterioration of the quiet use and enjoyment of surrounding residential homes and properties from:

1. Industrial operations that run twenty-four (24) hours a day in residential areas;
  2. Obnoxious night-time light emitted off-site;
  3. Obnoxious hydrocarbon odors and/or hydrogen sulfide-bearing gases emitted off-site;
  4. Obnoxious industrial noise emitted off-site;
  5. Excessive vibrations felt off-site;
  6. Ambient dust emitted off-site.
- ii. Violation of legally required community master plans by forcing industrial conditions on agriculturally and residentially zoned and/or used areas;
  - iii. Scattered debris on-site that does not meet site maintenance standards of the community;
  - iv. Truck traffic impeding flow of traffic and endangering pedestrian, non-motorized travel within the community;
  - v. Excessive truck traffic resulting in significant damage to roads within the community;
  - vi. Activities that disrupt wildlife and wildlife habitat;
  - vii. Activities near public parks or public/private nature preserves that impact the natural ecosystem and quiet enjoyment of nature paths, trails and wildlife habitats;
  - viii. Withdrawal of groundwater resulting in reducing the volume or amount of well water serving residential properties, and any and all copies of the application and results of MDEQ assessment thereof pursuant to the Water Withdrawal Assessment Tool (WWAT) in compliance with Michigan's NREPA, P.A. 451 of 1994, as amended, Part 327: Great Lakes Preservation Act, MCL 324.32706a et seq.;
  - ix. Withdrawal of groundwater resulting in likely impacts to the interconnected lakes, streams, ponds, wetlands, fish and other aquatic species, and any and all copies of the application and results of MDEQ assessment thereof pursuant to the Water Withdrawal Assessment Tool (WWAT) in compliance with Michigan's NREPA,
  - x. P.A. 451 of 1994, as amended, Part 327: Great Lakes Preservation Act, MCL 324.32706a et seq.;
  - xi. Contamination of groundwater, surface water and drinking water supplies;
  - xii. Contamination of environmentally sensitive areas;

- xiii. Off-site soil erosion that causes nutrient degradation, pollution, and wildlife habitat impacts, recognizing that oil and gas operations are exempt from Part 91: Soil Erosion and Sedimentation Control (SESC) Act of Michigan's NREPA, P.A. 451 of 1994, as amended;
- xiv. Activities that impact the course and flow of storm water runoff;
- xv. Environmental consequences from the storage and disposal of wastewater on-site;
- xvi. Environmental consequences from the loading, unloading and off-site transport of waste and products;
- xvii. Environmental consequences of wells and pipelines within, or in close proximity to protected wetlands, woodlands and environmentally sensitive areas within the Township.

(2) Each of the adverse secondary impacts addressed by this article constitutes a harm which the Township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing such adverse secondary impacts is the Township's rationale for this Ordinance and exists independent of any comparative analysis between oil and gas exploration/development and other industrial activities.

(3) The Township finds that the documentation relied on in support of this Ordinance is reasonably relevant to the Township's interest in preventing adverse secondary impacts. The Township hereby adopts and incorporates herein its stated findings and the legislative record related to the adverse secondary impacts of oil and gas exploration, extraction and development from the following studies and reports made a part of the legislative record including but not necessarily limited to:

Secondary Impacts of Oil and Gas Exploration and Development: Charter Township of West Bloomfield, Oakland County, by Christopher P. Grobbel, PhD.

Residential Depreciation With Introduction of Oil and Gas Drilling and Fracking, by David

M. Heinowski, MAI; Too Close to Home: The Location of Oil and Gas Wells in Michigan, A Position Paper by Laura Robinson, PSY.D

Report on Fracking by the Oakland County Water Resources Commissioner Jim Nash;

Environmental Risks of Michigan Oil and Natural Gas Development by Christopher Grobbel, PhD

Seismic Shift: Oklahoma's Earthquakes Triggered by Wastewater Disposal Wells, by Michael Walsh dated April 23, 2015

Updated USGS-Oklahoma Geological Survey Joint Statement on Oklahoma Earthquakes, dated May 2, 2014 by USGS

Hydraulic Fracturing Radiological Concerns for Ohio, by Melissa Belcher, MS and Marvin Resnikoff, PhD.

Water Wells in Proximity to Oil and Gas Development: What you Need to Know, published by the Ground Water Protection Council

Ladra v. New Dominion, LLC, 353 P3d 529 (2015)

Hiser v. XTO Energy, Inc., 768 F.3d 773 (2014)

Wallach v. Town of Dryden, 23 NY3d 728 (2014)

In The Matter of Norse Energy Corporation USA v. Town of Dryden, and Dryden Resources Awareness Coalition, 108 AD3d 25 (2013)

Addison Township v. Grout, 435 Mich. 809, 460 N.W.2d 215 (1990)

Michigan Oil Company v. Natural Resources Commission, 406 Mich. 1; 276 N.W.2d 141 (1979)

West Michigan Environmental Action Council v. Natural Resources Commission, 405 Mich. 741; 275 N.W.2d 538 (1979) as well as in experiences, and other evidence generated by other communities of the adverse secondary impacts of oil and gas exploration/development and ancillary activities such as Shelby Township as depicted at the October 8, 2014, Residential Oil Drilling Town Hall; Scio Township, Washtenaw County and West Bay Exploration Wing 1-15 exploratory well during 2014-2015; Santa Barbara County from the Exxon Mobile pipeline rupture in 2015; City of Glendive Montana from the 2011 and 2015 pipeline rupture; Calhoun County from the Enbridge pipeline rupture in 2010 and the experiences of the National Oceanic and Atmospheric Administration, Office of Response and Restoration found in the many reports regarding oil and chemical spill research available at <http://response.restoration.noaa.gov/oil-and-chemical-spills/research-publications>.

#### **Section 6.4 Rationale.**

- a. A need has emerged to protect the public health, safety and welfare pursuant to the authority granted by the Michigan Constitution, Article VII, Sections 14, 17, 18, 19, 29, and 34; and the Michigan General Law Township Act, Sections 41.181 and 41.183, to adopt a regulatory ordinance to minimize the adverse secondary impacts of oil and gas development/ exploration and ancillary activities within the Township.
- b. This Ordinance is designed to establish reasonable and uniform regulations to prevent potential adverse secondary impacts related to these activities. The regulations adopted are designed to provide objective and orderly procedures for the administration of this Ordinance.

**Section 6.5 Certificate of compliance required.** Prior to commencing with oil or gas exploration, extraction or development or ancillary activities, a certificate of compliance (COC) shall be obtained certifying that the proposed oil and gas activities within the Township comply with all applicable ordinances and that all required Township permits and certificates have been obtained.

**Section 6.6 Application requirements for issuance of a certificate of compliance.** An administratively complete application is required that shall include all information, documents, plans, and studies as listed, and is signed by all persons who have a legal or equitable interest in the property. An applicant shall file a complete application with the Zoning Administrator which conforms to and includes all the following information and documentation:

- a. Applicant/operator. The business name, address, telephone number, and e-mail of the applicant/operator.
- b. Property owner. The name, address, telephone number and e-mail of the property owner.

- c. Location. The location of the proposed activity, the zoning classification, legal description, and parcel identification number(s).
- d. Local agent. The name, address and telephone number of the local agent who will be available twenty-four (24) hours a day in the event of emergency, who is authorized to provide notice of a release, receive service of process, and is responsible to ensure compliance with the regulations of this Ordinance. In the event the local agent changes, the applicant/operator shall immediately notify the Sharon Township Zoning Administrator in writing of the name and business address of the new local agent.
- e. Permit applications. A copy of all permit applications filed by the applicant/operator with the State of Michigan, the county, the road commission, MDEQ, MDOT, or other local units of government for oil or gas exploration/development and ancillary activities associated with the proposed site.
- f. Governmental agency permits. A copy of any permit issued and/or denied by a governmental agency related to the proposed oil or gas activities on the proposed site.
- g. Permits. A copy of all of the following state, federal or local permits:
  - (1) If required, a copy of wetland permit;
  - (2) If required, a copy of air, surface water discharge permit(s);
  - (3) If required, a copy of liquid waste hauling and disposal permit(s), including but not limited to deep well injection permit;
  - (4) If required, a copy of threatened and/or endangered species "take" permit(s);
  - (5) If required, a copy of soil erosion and sediment control permit or any other supplemental documentation under other governmental authority(-ies);
  - (6) If required, a copy of any construction permit(s).
- h. Schedule. A timeline and activity schedule for the calendar year and/or season(s) of operations, as well as a daily schedule of on-site operations and activities for the proposed oil or gas exploration, extraction or development and ancillary activities.
- i. Plans. A copy of the following plans, if applicable:
  - (1) Soil erosion and sedimentation control plan;
  - (2) Landscape and Screening plan;
  - (3) A hydrogeological study and monitoring plan;
  - (4) Water withdrawal and management plan;
  - (5) Protected species impact mitigation plan;
  - (6) Truck route plan;



- (7) Noise management plan;
  - (8) On-site chemical storage plan;
  - (9) Waste management and disposal plan;
  - (10) Pollution prevention plan;
  - (11) Emergency response plan;
  - (12) Site identification plan;
  - (13) Site lighting plan; and
  - (14) Site restoration plan.
- j. Required plans shall comply with the following:
- (1) Soil erosion and sedimentation control plan. The soil erosion and sedimentation control plan shall comply with all applicable provisions of Part 91 SESC of Michigan's NREPA, P.A. 451 of 1994, as amended, and Article 18 of the Sharon Township Zoning Ordinance.
  - (2) Grading plan. The grading plan shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
  - (3) Hydrogeological study and monitoring plan. A hydrogeological study and monitoring plan is required for the protection of groundwater. Such study shall consist of a minimum of five (5) on-site groundwater monitoring wells at the perimeter of the drilling pad set at a depth encountering the first water bearing zone. Groundwater depth, gradient, and flow direction shall be determined within a minimum of three (3) groundwater monitoring wells, and a minimum of two (2) downgradient groundwater monitoring wells shall be installed to determine and monitor groundwater conditions. The initial results of the study must be included in the application submittal for the application to be considered administratively complete and shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
  - (4) Water withdrawal plan. The applicant/operator shall provide a water withdrawal plan which is designed to protect the level of water in lakes, ponds, wetlands, watersheds, groundwater and residential drinking wells located within the Township, including all materials submitted to the MDEQ as part of the WWAT assessment. Such water withdrawal plan shall be based upon the results of a required valid hydrogeological study and groundwater pump test and shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance. Pump test results shall be included in the required water withdrawal plan.
  - (5) Water management plan. The applicant/operator shall provide a water management plan designed to determine and detail any potential or anticipated short and long term impacts from planned groundwater withdrawals. Applicant/operator must submit the results of a valid hydrogeological investigation, results of a valid aquifer pump test, and computer modeling to determine aquifer characteristics and the lateral radius of the cone of depression and anticipated impacts to water supply wells and environmental features to

be created at the proposed aquifer pump rate at the location of the proposed point of groundwater withdrawal.

- (6) Truck route plan. Excessive truck traffic impedes the flow of traffic within a community and results in significant damage to paved and/or gravel roads within the community. Therefore, the applicant/operator shall submit a proposed truck route plan. The plan shall be developed to minimize the impact on local traffic flow and on the condition of local roads utilizing an engineered pavement management system (PMS) methodology to determine existing hard surface road conditions. The plan shall include the proposed routes of all trucks to be utilized at the site, the estimated maximum weight of those trucks, and the estimated number of trucks entering and exiting the site on a daily basis. The plan shall also provide for restoration of damaged roads consistent with best engineering practices utilized for bituminous or concrete paving systems. The proposed truck route plan shall be approved by the Zoning Administrator based on consultation with the Washtenaw County Road Commission, Washtenaw County Office of the Sheriff, Washtenaw County Emergency Management Operations Center, and the Manchester Township Fire Department Chief (covering Sharon Township).
- (7) Noise management plan. Industrial operations in and adjacent to residential districts oftentimes generate noise, vibration, etc. that is emitted off-site. The applicant/ operator shall submit a noise management plan as approved by the Township detailing how the equipment used complies with the maximum permissible noise provisions of Article 18 of the Sharon Township Zoning Ordinance, how the operations will not create conditions that result in unreasonable interference with the comfortable use and enjoyment of another's property. The applicant/operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generating equipment. The noise management plan shall:
- i. Provide documentation establishing the ambient noise level prior to construction;
  - ii. Identify the operations on site that have the potential to cause noise impacts;
  - iii. Specify how the impacts will be mitigated considering the following characteristics:
    1. Nature and proximity of adjacent development and land uses;
    2. Seasonal and prevailing weather patterns, including wind directions;
    3. Extent of vegetative screening on or adjacent to the site;
    4. Topography.
  - iv. On-site chemical storage plan. A chemical storage plan containing a list and the location of all chemicals on-site and the material safety data sheets (MSDS) is required and shall be submitted to the Manchester Township fire department. If the list of chemicals is confidential and not subject to disclosure under the Freedom of Information Act (FOIA), the list shall be marked accordingly.

- v. Waste disposal plan. The application shall include a complete description of all projected waste and shall include a list of all chemical constituents and total volumes intended for disposal and the manner by which waste shall be lawfully disposed.
- vi. Pollution prevention plan. The applicant/operator shall provide a pollution prevention plan which is designed to protect the lakes, ponds, wetlands, watersheds, soil/groundwater, air, woodlands, wildlife habitats, walking trails, nature paths, and other environmentally sensitive areas of the Township from contamination or pollution that may result from the proposed oil and gas exploration/development and ancillary activities.
- vii. Emergency response plan. A copy of applicant/operator's emergency response plan, which shall be submitted to the Washtenaw County Sheriff, Manchester Township Fire Department, Washtenaw County Emergency Services Center, and the Sharon Township Zoning Administrator. Also, the applicant/operator shall, at its sole cost and expense, provide appropriate site orientation and adequate information for on- going training to address any potential hazardous or dangerous conditions that may result from the oil and gas exploration/development and ancillary activities. Pursuant to state and federal law, the operator shall provide any information necessary to assist the Township with establishing written procedures to minimize hazardous or dangerous conditions that may result from the proposed oil and gas exploration/development and ancillary activities.
- viii. Site identification plan. A site identification plan shall be submitted delineating the location, wording and size of required site signage.
- ix. Site lighting plan. A site lighting plan shall be submitted for all phases of oil and gas exploration/development and ancillary activities, and such plan shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
- x. Site restoration plan. A site restoration plan shall be submitted showing the nature, extent and timelines for site restoration once exploration, extraction and development activities have ceased, and the well is abandoned and plugged pursuant to the well construction code pursuant to Part 127 of Act No. 368 of the Public Acts of 1978, as amended, being MCL §333.12701 et seq.
- k. Road maintenance agreement. The applicant/operator and the Township shall enter into a road maintenance agreement with the Township, provide the required road maintenance escrow, and adhere to all conditions set forth in the agreement in consultation with the Washtenaw County Road Commission.
- l. Site maintenance agreement. The applicant/operator shall include a copy of the executed standard Township site maintenance agreement.
- m. Proof of insurance. The applicant/operator shall include proof of insurance in coverages and amounts as established by resolution of the Township Board including a required pollution incident rider.

- n. **Statement.** A statement as to whether the applicant/operator has operated a site where a release occurred, where there was a violation of any provision of the Michigan's NREPA, P.A. 451 of 1994, as amended, or where there was a finding that a nuisance existed; describe each release, violation, or nuisance, and specify the date, place, jurisdiction and any emergency and/or remedial action taken.
- o. **General operations.** A statement providing a general operations plan with a description of the nature of the proposed activities, hours of operation, the number of employees, and projected duration of the oil and gas exploration/development and ancillary activities.
- p. **Inspection.** The application shall include a statement authorizing Township officials or their agents to enter upon the site for the purpose of inspection to determine if the applicant/operator is in compliance with applicable ordinances.
- q. **Supplementation.** The application information required shall be supplemented in writing by certified mail, return receipt requested, to the Zoning Administrator within ten (10) business days of a change of circumstances which would render the information originally submitted false or incomplete.
- r. **Fees, expense reimbursement, performance guarantee.** The applicant/operator shall pay the application fee and shall establish an escrow to reimburse the Township for all expenses of inspection, administrative review, technical review, and for professional and consultant fees incurred including, but not limited to: engineering, planning, building, environmental, and legal fees. A performance guarantee is required in an amount sufficient to ensure compliant closure and restoration of the well and site. The application fee, escrow, and performance guarantee shall be established by resolution of the Township Board. The resolution shall be placed on file and made available at the office of the Township Clerk.
- s. **Signatures required.** The application shall be signed by both the applicant/operator and property owner and shall be maintained by the Township Zoning Administrator.
- t. **Disclosure.** The information provided by an applicant/operator in connection with an application for a certificate under this article shall be maintained by the Township and any personal information deemed confidential will be disclosed only as required by law or by court order.

**Section 6.7 Issuance of certificate of compliance.**

- a. Upon compliance with all applicable ordinances, a certificate of compliance shall be issued by the Township.
- b. Nothing in this article, nor the issuance of a certificate of compliance shall be construed to exempt the applicant/operator or property owner from complying with any other applicable Township, state or federal regulation, requirement or permit.

**Section 6.8 Special conditions and restrictions.** The Township may attach special conditions, restrictions, requirements, or limitations which are reasonable and necessary to protect the public health, safety and general welfare; to prevent pollution, impairment or destruction of natural resources; and to avoid the creation of public or private nuisances.

**Section 6.9 State and federal compliance.** The applicant/operator shall comply with all applicable state and federal regulations and shall provide evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and shall maintain the required permits throughout the duration of all operations. The applicant/operator shall notify the Township immediately of

any suspension or revocation of any required state and/or federal permit. Upon notification of a suspension or revocation, the Township-issued certificate will hereby be deemed suspended or revoked until state and/or federal compliance is reached.

**Section 6.10 Denial.** In the event the Township issues a written notice to deny for failure to comply with the requirements of this Ordinance, the provisions of Section 6.12 of this Ordinance providing for an appeal hearing shall apply.

**Section 6.11 Suspension.** Upon receiving notice of a violation of any provision of this Ordinance, the Township Clerk shall issue a written notice of intent to suspend, which shall include the grounds for the suspension, the effective date of the suspension, and that an appeal hearing before the Township Board may be requested by filing a request in writing within twenty-one (21) calendar days. A hearing shall be provided pursuant to the provisions of Section 6.12. The suspension shall take effect immediately after the date of the notice of suspension or, if an appeal hearing is requested, as approved by the Township Board after the hearing is held.

**Section 6.12 Revocation.**

- a. Upon receiving notice that any of the following adverse conditions have occurred, the Township Clerk shall issue a written notice of intent to revoke and schedule a hearing as provided by Section 6.13:
  - (1) Release. If a release of a hazardous substance(s) occurs in violation of this Ordinance, or any state or federal law or regulation.
  - (2) Environmental consequences. Environmental consequences of a release from a well, pipeline or ancillary facilities that cause one (1) or more of the following:
    - i. A disruption to wildlife or unacceptable fragmentation of wildlife habitats;
    - ii. Withdrawal of groundwater resulting in an adverse impact to drinking water wells, lakes, streams, ponds and wetlands situated within the community;
    - iii. Contamination of soil, groundwater, air, surface water or environmentally sensitive areas in excess of unrestricted residential standards promulgated pursuant to Part 201 of Michigan's NREPA, Public Act 451 of 1994, as amended;
    - iv. Risks or impacts to human health, safety and community welfare.
    - v. Impacts to the course and flow of storm water runoff.
  - (3) A pattern of adverse impacts. It is demonstrated that the operations have resulted in a pattern of adverse impacts to the nearby properties that substantially disturb the peace, order, and tranquility of the neighborhood.
  - (4) Illegal activity. The applicant/operator has knowingly or recklessly engaged in illegal activity or allowed illegal activity to occur on the site.
- b. Effective date. The revocation shall take effect immediately from the date of the notice of revocation.
- c. Appeal. The written notice of intent to revoke, shall include the grounds for the revocation, the effective date of the revocation, and that a request for an appeal hearing before the Township

Board may be made in writing, within twenty-one (21) calendar days of the date of the notice of intent to revoke, pursuant to the provisions of Section 6.13. If not appealed, the suspension shall take effect immediately after the date of the notice of suspension.

**Section 6.13 Appeal hearing.**

- a. Notice of hearing. Upon receipt of a request for appeal, the Township Board shall conduct an appeal hearing on the intent to suspend or revoke the certificate of compliance. The Township Board shall serve notice upon the applicant/operator and property owner by certified mail not less than twenty-one (21) calendar days prior to the hearing date. The notice shall:
  - (1) State the date, time and place of the hearing;
  - (2) Include a statement that evidence and testimony may be presented, and there is a right to be represented by an attorney.
- b. Hearing and decision. The hearing shall be conducted by the Township Board and shall be open to the public. The Township Board shall issue a written statement of its findings, decision, specific grounds for its decision, and a statement that the decision may be appealed to a court of competent jurisdiction.

**Section 6.14 Release prohibited.** It shall be unlawful for any person to release or cause a release, discharge, or emission of any hazardous or potentially hazardous substance, contaminated water, liquid, oil and/or natural gas, brine, or other substance, liquid, gas, oil or combination thereof, containing a concentration greater than the limit established by state or federal law or regulation, whichever is lower, onto any area of the Township, including but not limited to, the air, surface of any land, or into any ditch, creek, stream, watercourse, wetland, pipe or conduit from any oil or gas exploration/ development or ancillary activity, or from any structure, building, facility, equipment, or system used for any oil or gas activity within the Township.

**Section 6.15 Operator compliance with all permits, plans and agreements.** The operations shall comply with all permits issued, all required plans as approved, and any and all conditions attached to the permit or approved plan; and shall comply with the provisions of all agreements between the operator and the Township.

**Section 6.16 Emergency response plan and training.**

- a. Submission. Prior to commencing with any activities, a copy of the emergency response plan shall be submitted to the county Sheriff and emergency services center, Township fire, and the Township Zoning Administrator.
- b. Information required. Pursuant to state and federal law, the operator shall provide any information necessary to assist the Township and all applicable local authorities and emergency personnel with an emergency response plan and hazardous materials survey establishing written procedures to minimize any potential hazard resulting from oil and gas exploration/development and ancillary activities.
- c. Training. Emergency response training of on-site personnel is required, and a copy of the emergency response plan shall be maintained on the site at all times.

**Section 6.17 Truck route.** At no time shall any overweight vehicle travel upon any roads within the Township and at no time shall any trucks travel upon any roads within the Township other than as specified in the approved truck route plan. The operator shall keep a truck use log which includes the number of trucks entering and exiting the site on a daily basis and the loaded-weight of each truck. If the truck traffic substantially impedes local traffic flow, threatens pedestrian travel, or if a road that is

designated for truck travel in the truck route plan is closed due to construction, an emergency, or weather then the truck route plan shall be reviewed by the County Sheriff and adjustments may be made to reduce the impact on traffic flow or pedestrian safety, or to make other temporary or permanent adjustments needed due to the change in circumstances. The operator shall comply with any adjustment made by the County Sheriff.

**Section 6.18 Site identification signage.** Site identification signage, in a size not to exceed eight (8) square feet and visible from a public roadway, shall be provided at each entrance to the site and shall clearly provide the following information:

- a. Applicant/operator name;
- b. Township-assigned address;
- c. Name and mobile phone number of the local agent(s);
- d. The twenty-four-hour emergency contact name and phone number.

**Section 6.19 Landscaping required.** Staggered minimum twelve (12) foot tall evergreen trees shall be placed around the perimeter of the site with a minimum landscape greenbelt buffer of twenty-five feet (25') in depth. The landscape buffer and trees shall be irrigated and maintained.

**Section 6.20 Fence required.**

- a. The site shall be completely enclosed with a chain link fence as follows:
  - (1) The chain link fence shall be at least eight feet (8') in height;
  - (2) The chain link posts and rails shall be dark green or black steel wire and shall have, at a minimum, 11-gauge thickness;
  - (3) Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence;
  - (4) All chain link fences shall be equipped with at least two (2) gates.
- b. A secured entrance gate on the access road shall be required and all gates are to be kept locked when the operator or its employees are not on the premises.

**Section 6.21 Exterior lighting.** Obnoxious night-time light emitted off the site interferes with comfortable, quiet use and enjoyment of surrounding residential property. Site lighting shall be shielded, directed downward and directed internally on the site so as to avoid glare on public roads, and adjacent property, dwellings and buildings. Exterior lights shall be turned off except when personnel are working on-site or motion sensors are activated.

**Section 6.22 Access roads.** Access to any facility shall be arranged to minimize danger to traffic; to minimize nuisance to surrounding properties; obtain and comply with all required state and county road commission standards and permits; and to maintain the integrity of Township roads. The following standards apply:

- a. Any newly established private easement or access roads constructed on the parcel containing the facility shall be located at least fifty feet (50') from any property line unless written consent is obtained from the adjoining property owner(s), a copy of any such consent agreement shall be provided to the Township;

- b. Prior to the commencement of any facility operations, the access road to the facility, beginning with its intersection with a Township road, shall be paved for the first fifty feet (50') and be constructed with an additional one hundred fifty feet (150') of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road; and
- c. All access roads shall be constructed and maintained to prevent the distribution of dust and mud to the surrounding area. A method of dust abatement shall be utilized during dry weather conditions and under no circumstances shall brine water, sulfur water, or water in mixture with any type of hydrocarbon be used for the abatement of dust.<sup>120</sup>

**Section 6.23 Pipelines.** No applicant/operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas, or petroleum liquids on, under, or through the streets, alleys or other properties without obtaining all required approvals and permits from the Township.

**Section 6.24 Nuisance mitigation required.** The oil and/or gas activities shall be conducted in such a manner as to prevent operations from becoming a nuisance under Township ordinances and state law, and such activities shall comply with the standards set forth in Article 3 of the Sharon Township zoning ordinance. Additionally, the site, all structures and all exterior equipment on the property shall be properly maintained and shall not be permitted to become dilapidated, unsightly, unsafe or blighted.

**Section 6.25 Dust, noise, vibration and odors.** All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, or noxious odors, and shall be in accordance with the best management practices as defined by the Michigan Department of Environmental Quality (MDEQ) for the exploration and/or production of oil, gas and other hydrocarbon substances and ancillary activities. All equipment used shall be constructed and operated so that dust, noise vibrations, and odors or other adverse impacts will be minimized and retained on-site, thereby reducing the adverse impacts to adjacent properties and persons living or working in the surrounding area.

**Section 6.26 Power equipment.** Compressors and other power-driven equipment shall utilize sparkless electric motors as an alternative to internal-combustion engines unless the applicant/operator can demonstrate to the Township's satisfaction that other proposed engines are consistent with the objectives of this Ordinance; will not cause noise, vibrations or odors to migrate off-site; and will not be a nuisance to adjacent properties. All electrical installations and equipment shall conform to Township ordinances and applicable national codes.

**Section 6.27 Disturbing the peace prohibited.** The local agent shall be responsible to maintain the premises to ensure compliance with all applicable provisions of Article 18.07 of the Sharon Township Zoning Ordinance, Environmental Standards: Noise.

**Section 6.28 Protection of residential well water.** Oil and gas activities shall not result in impacting residential water supplies, including but not necessarily limited to:

- a. The withdrawal of groundwater resulting in reducing the volume or amount of well water serving residential properties; or
- b. Contamination of soil, groundwater, and drinking water supplies.

**Section 6.29 Disturbance of environmentally sensitive and protected areas.** Any oil and/or gas activity shall not cause environmental consequences to wetlands, woodlands and environmentally sensitive areas including but not limited to:

- a. A disruption to wildlife and unreasonable fragmentation of wildlife habitats;

---

<sup>120</sup> Amended February 4, 2021. Effective February 18, 2021.



- b. A disruption to public parks;
- c. A disruption to nature preserves;
- d. Withdrawal of groundwater resulting in an impact to private water supplies, lakes, streams, ponds and wetlands within the community;
- e. Contamination of soil, groundwater, surface water or environmentally sensitive areas;
- f. Impacts to the course and flow of storm water runoff.

**Section 6.30 Monitoring.**

- a. The operator, at its own cost, shall monitor the impact of its activities on the environment within one thousand (1,000) feet of the site, on the watershed in which the site is located, and on adjacent residential properties to ensure that a release has not occurred and that the adverse impacts of the operator's activities are not adversely impacting nearby properties.
- b. In order to conduct the monitoring required by this Ordinance the operator, at its own cost, shall sample on-site groundwater monitoring wells quarterly for purgeable aromatic hydrocarbons, methane and chloride, and shall report the sample results to the Township Zoning Administrator within ten (10) calendar days of receipt of sample laboratory test results.
- c. In order to conduct the monitoring required by this Ordinance the operator shall demonstrate to the Township how the operator will obtain site access to comply with these monitoring requirements and provide copies of all such signed site access agreements with property owners with the Township.

**Section 6.31 Copy of data.**

- a. Operator shall copy the Township on all data required to be delivered to the Michigan Department of Environmental Quality (MDEQ) and/or the United States Environmental Protection Agency (EPA) for the site operations.
- b. The operator shall provide any laboratory test results to the Township upon request.

**Section 6.32 Waste disposal.** Operator shall inform the Township in writing of any modification of the waste stream and/or any new waste not included in the application. Applicant/operator shall provide a yearly report to the Township which includes an analysis of the waste stream for all chemical constituents and total volumes. The operator shall also allow the Township to conduct random samples of the waste stream upon a forty-eight (48) hour notice to the operator. This sampling and testing shall be at operator's expense.

**Section 6.33 Well conversion.**

- a. Oil and/or gas wells. Prior to converting an oil or gas well to a Class II brine injection well, an operator shall file the following updated documents and plans with the Township Zoning Administrator:
  - (1) Hydrogeological study and monitoring plan;
  - (2) Truck route plan;
  - (3) Noise management plan;

- (4) On-site chemical storage plan;
  - (5) Waste management and disposal plan;
  - (6) Pollution prevention plan;
  - (7) Emergency response plan;
  - (8) Proof of insurance.
- b. Class II liquid industrial waste well. Prior to installing a new Class II liquid industrial waste well or to converting any existing well to a Class II liquid industrial waste well, an operator shall file an administratively complete application that conforms to all application requirements set forth in this Ordinance.

**Section 6.34 Notices required; application.** Oil and gas exploration/development and ancillary activities have the potential of adverse secondary impacts and very serious consequences. Further, there is a lack of information readily available to the municipality and the public regarding local exploration, extraction and development of oil and gas operations and ancillary activities. Therefore, the following notice to the Township and surrounding properties is required to enable the Township to ensure the protection of the health, safety and welfare of its residents, of environmentally sensitive features, residential water wells and the quality of life:

- a. Within five (5) calendar days before filing an application for a permit with the State of Michigan to conduct any oil or gas activity within the Township, the applicant shall file a copy of the application with the Zoning Administrator.
- b. Within seven (7) calendar days before filing an application for a permit with the State of Michigan, the applicant shall by regular United States mail, notify the owner(s) of record and/or occupant(s) of all properties within one thousand three hundred twenty (1,320) feet of the proposed well location and shall include the following information:
  - (1) The name and address of the applicant.
  - (2) A statement that the applicant has applied for a permit to drill and operate an oil and gas well.
  - (3) A statement that a person may submit comments on the application by mail to the Michigan Department of Environmental Quality (MDEQ), Office of Oil, Gas and Minerals (OOGM), and provide the applicable address.
  - (4) Include a copy of the first page of the permit application.

**Section 6.35 Notice required; release.** The operator shall notify the Township of the following:

- a. Any change to the name, address and phone number of the operator immediately after the change occurs.
- b. Any change to the name, address and phone number of the person(s) designated to receive notices from the Township within twenty-four (24) hours after the change occurs.
- c. Any "incident report" or written complaint submitted to the Michigan Department of Environmental Quality (MDEQ), the Supervisor of Wells, or other regulating agency within

seventy-two (72 hours) after the operator has notice of the existence of such report or complaint.

**Section 6.36 Penalties and enforcement.** Anyone found to be in violation of this Ordinance shall be responsible for a civil infraction in addition to any other fines or penalties applicable under other law. The court may impose a civil fine of not less than \$500.00 nor no more than \$10,000 per day of violation. Each day that a violation remains shall constitute a separate violation of this ordinance. Additionally, a person who violates any provision of this Ordinance shall reimburse Sharon Township for any and all costs, direct or indirect, which Sharon Township has incurred in connection with any such violation<sup>121</sup>.

**Section 6.37 Applicability of the Act.** If this Ordinance is silent to given procedural requirements of the Supervisor of Wells Act, Part 615 of NREPA, P.A. 451 of 1994, as amended, MCL 324.101 et seq. or in any way conflicts with that Act, Michigan's Revised Judicature Act of 1961, P.A. 236 of 1961, as amended, MCL 600.8701 et seq., shall govern.

**Section 6.38 Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any part, clause, sentence, provision, paragraph or section of this Ordinance be found invalid, pre-empted, or unconstitutional for any reason by any court of competent jurisdiction, any such decision shall not affect the validity of the remainder of this Ordinance, which shall remain in full force and effect to the maximum allowable extent under said decision.

**Section 6.39 Savings clause.** All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

---

<sup>121</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 7. STATE-LICENSED MARIJUANA FACILITIES<sup>122</sup>**

**Section 7.1 Short Title.** This ordinance shall be known and may be cited as the Sharon Township Marijuana Facilities Ordinance.

**Section 7.2 Definitions.** Unless defined by this chapter, any term used in this chapter that is defined by the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing marihuana shall have the definition given in those Acts and Rules. As used in this ordinance:

- a. "Act 281" or the "Act" means the Michigan Medical Marijuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended.
- b. "Applicant" means a person who applies or who has applied for a state operating license and a Township marijuana processor or grower permit.
- c. "Grower" means a licensee that is a commercial entity that cultivates, dries, trims or cures and packages marijuana for sale to a processor or provisioning center. A "Grower" shall also mean a commercial entity that cultivates, dries, trims or cures and packages marijuana for sale to a Marihuana Establishment if the Grower has an existing Township Permit pursuant to Section 4 of this Ordinance and a state license pursuant to the Michigan Regulation and Taxation of Marihuana Act.
- d. "Licensee" means a person holding a state operating license.
- e. "Marijuana" or "Marihuana" means that term as defined in Section 7106 of the Michigan Public Health Code.
- f. "Marijuana Licensing Board" means the Medical Marijuana Licensing Board established under Section 301 of Act 281.
- g. "Marihuana Establishment" means a marihuana grower or a marihuana processor.
- h. "Marijuana Facility" means a licensee's location and operations under the licensee's state operating license.
- i. "Marijuana Plant" means any plant of the species *Cannabis sativa* L. "Marijuana-Infused Product" means an edible substance or similar product containing marijuana that is intended for human consumption in a manner other than smoke inhalation.
- j. "Michigan Medical Marihuana Act" or "MMMA" means the Michigan Medical Marihuana Act of 2008, as amended.
- k. "Michigan Regulation and Taxation of Marihuana Act" means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018.
- l. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legal entity.
- m. "Processor" means a licensee that is a commercial entity that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana- infused product

---

<sup>122</sup> Adopted November 2, 2017, Effective as of December 1, 2017. Amended on October 3, 2019. Amended on February 2, 2023

- for sale and transfer in packaged form to a provisioning center. A “Processor” shall also mean a commercial entity that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana- infused product for sale and transfer in packaged form to a Marihuana Establishment if the Processor has an existing Township Permit pursuant to Section 5 of this Ordinance and a state license pursuant to the Michigan Regulation and Taxation of Marihuana Act.
- n. “Provisioning Center” means a licensee that is a commercial entity that purchases marijuana from a grower or processor and sells, supplies or provides marijuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property at which marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A non-commercial location used by a primary caregiver to assist a qualifying patient is not a provisioning center for purposes of this ordinance.
  - o. “Registered Primary Caregiver” means a primary caregiver who has been issued a current registry identification card under the MMMA.
  - p. “Registered Qualifying Patient” means a qualifying patient who has been issued a current registry identification card under the MMMA.
  - q. “Registry Identification Card” means that term as defined in Section 3 of the MMMA. “Rules” means the rules promulgated under the Michigan Administrative Procedures Act, to implement Act 281.
  - r. “Safety Compliance Facility” means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, and tests it for contaminants and other adverse substances; returns the test results to the party requesting the testing; and may return the tested marijuana to the marijuana facility that submitted the marijuana.
  - s. “Secure Transporter” means a licensee that is a commercial entity that stores marijuana and transports marijuana between marijuana facilities for a fee.
  - t. “State Operating License” means a license that is issued under Act 281 that allows the licensee to operate as one of the following, specified in the license: a grower, processor, securer transporter, provisioning center or safety compliance facility.
  - u. “Statewide Monitoring System” means the Internet-based, statewide database established and maintained by the State Department of Licensing and Regulatory Affairs under the Michigan Marihuana Tracking Act, Act 282 of the Public Acts of Michigan of 2016, as amended, for the purpose of enabling authorized parties and agencies to confirm or verify relevant information with respect to marijuana uses authorized by Act 281 and the Michigan Regulation and Taxation of Marihuana Act.
  - v. “Usable Marijuana” means the dried leaves, flowers, plant resin or extract of the marijuana plant, but does not include the seeds, stalks and roots of the plant.

### **Section 7.3 Authorized Marijuana Facilities.**

- a. The following types of marijuana facilities may be established and operated by a licensee in the Township, subject to compliance with Act 281, the Michigan Regulation and Taxation of Marihuana Act and the Rules promulgated thereunder, and this ordinance:

- (1) Four (4) Growing Facilities
  - (2) Four (4) Processing Facilities
- b. Not more than four (4) growing facilities and four (4) processing facilities shall be established, operated or permitted in the Township. A growing facility and a processing facility may be together on one property so long as both facilities have licenses and permits and only one structure will be used to house both facilities and the structure size complies with this ordinance.
  - c. A marijuana facility shall be established and operated only by a person who has been issued a state operating license. The facility shall be operated only so long as the state operating license remains in effect and only in accordance with the terms of the license.
  - d. A marijuana facility shall be established only by a person who has been issued a Township permit under the terms of this ordinance. The facility shall be operated only so long as the Township permit remains in effect and only in accordance with the terms of the permit.
  - e. A marijuana facility shall be not be operated in any Township district zoned residential.
  - f. A marijuana facility shall comply with the applicable provisions of the Township construction codes. Permits under such codes shall be secured, if required.
  - g. A marijuana facility shall not be a home occupation under the terms of the zoning ordinance.
  - h. A marijuana facility may not be located within one thousand (1000) feet of:
    - (1) a public or private elementary, junior, senior, vocational, or secondary school;
    - (2) a licensed preschool;
    - (3) a public playground;
    - (4) a public or private youth activity facility;
    - (5) a public park;
    - (6) a public recreation area or facility;
    - (7) a public library; or
    - (8) a church or a religious institution.
  - i. The facility must be licensed by the State of Michigan and must be in compliance at all times with the laws of the State of Michigan, including, but not limited to, the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; the Michigan Regulation and Taxation of Marihuana Act, the Emergency Rules for Adult-Use Marihuana Establishments of the Michigan Department of Licensing and Regulatory Affairs Marijuana Regulatory Agency, and all other applicable rules promulgated by Michigan LARA, the MDEQ, and the State of Michigan. Every applicant must submit a photocopy of the applicant's valid and current property and liability insurance, the Medical Marihuana Facility license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and, if such a license has been obtained, the Michigan Recreational Marihuana Facility License issued by the State of Michigan in accordance with the Michigan Regulation and Taxation of Marihuana Act.

**Section 7.4 Township Marijuana Grower Permit.**

- a. The Township shall issue not more than four (4) marijuana grower permits.
- b. A marijuana grower permit shall authorize the holder of the permit to grow only the maximum number of marijuana plants as permitted by the growers Class A, B or C license.
- c. The permit shall be valid only as long as the grower's state license is in effect.
- d. A grower shall enter all marijuana transactions, its current marijuana inventory and all other required information into the statewide monitoring system as required by the Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act.
- e. A grower shall operate in the Township only so long as its Township permit is in effect and only in accordance with this ordinance.
- f. A grower shall operate only on the property and at the address specified in the grower's permit.
- g. A grower shall sell marijuana, other than marijuana seeds, only to a processor or provisioning center, except that a grower with an existing Township Permit pursuant to Section 4 of this Ordinance and a state license pursuant to the Michigan Regulation and Taxation of Marihuana Act may also sell to a Marihuana Establishment.
- h. A grower shall transport marijuana offsite only to a processor or provisioning center and only by means of a licensed secure transporter, except that a grower with an existing Township Permit pursuant to Section 7.4 of this Ordinance and a state license pursuant to the Michigan Regulation and Taxation of Marihuana Act may also transport to a Marihuana Establishment by means of a licensed secure transporter.
- i. During the time that a grower holds a processor permit, it shall not be a registered primary caregiver, nor shall it employ a person who is a registered primary caregiver.

**Section 7.5 Township Processor Permit.**

- a. The Township shall not issue any more than four (4) marijuana processor permits.
- b. The marijuana processor permit shall be valid only so long as the processor's state operating license is in effect.
- c. A marijuana processor shall operate only so long as its Township permit is in effect and only in accordance with the terms of the permit and this ordinance.
- d. A processor shall operate only on the property and at the address specified in the processor's permit.
- e. The processor permit shall authorize the sale of marijuana or marijuana- infused products only to a provisioning center, except that a Processor with an existing Township Permit pursuant to Section 7.5 of this Ordinance and a state license pursuant to the Michigan Regulation and Taxation of Marihuana Act, shall be authorized to sell to a Marihuana Establishment.
- f. A processor shall transport marijuana offsite only by means of a licensed secure transporter.

- g. During the time that a processor holds a processor permit, it shall not be a registered primary caregiver, nor shall it employ a person who is a registered primary caregiver.
- h. A processor shall enter all marijuana transactions, its current marijuana inventory and other required information into the statewide monitoring system as required by the Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act.

#### **Section 7.6 Township Marijuana Facility Permits.**

- a. A marijuana facility shall be established and operated in the Township only if permitted under the terms of this ordinance.
- b. A person shall apply for a marijuana facility permit on a Township application form, and shall pay the prescribed application fee, and shall make any required escrow deposit, toward payment of Township expenses in the matter, at the time of application.
- c. The application shall include the following information and other submittals, and such other information as the Township may require in order to verify compliance with Act 281, the Michigan Regulation and Taxation of Marihuana Act, the Rules and this ordinance:
  - (1) The applicant's name, home and business addresses, e-mail address, and telephone number(s).
  - (2) The address, legal description and permanent parcel number of the property on which the marijuana facility is proposed to be located.
  - (3) The name and address of the owner of record of the property on which the marijuana facility is to be located, if not owned by the applicant, and a signed copy of the lease or other legal instrument whereby the owner has permitted the applicant to establish and operate the proposed marijuana facility on the property.
  - (4) The type of marijuana facility, under Act 281, or the Michigan Regulation and Taxation of Marihuana Act, for which the applicant seeks a permit.
  - (5) A copy the applicant's current State of Michigan operating license which shall be provided to the Township Supervisor, or his/her designee, prior to construction or the commencement of any marijuana facility operations.
  - (6) A complete site plan of the property on which the marijuana facility would be located and operated. The contents of the site plan shall include the location, shape, area and dimensions of the property; the location, outline, square footage and dimensions of all existing and proposed structures; and a description of the proposed uses for each building and structure, except such components as are determined by the Township Supervisor or designee to be not relevant or necessary for the purpose of issuance of the permit under this ordinance.

The application shall be submitted to the Township Supervisor or the Supervisor's designee. It shall be subject to the approval of the Board of Trustees consistent with this ordinance, Act 281, the Michigan Regulation and Taxation of Marihuana Act and the Rules promulgated by the state.



- d. Upon receiving an application, the Supervisor or the designee shall review it to determine whether it is complete under the terms hereof and the Act. If it is not complete, the Supervisor shall return the application, the application fee and any escrow deposit to the applicant. An incomplete application that is returned by the Supervisor shall not be deemed submitted and shall not have precedence of consideration over any other application.
- e. Upon determining that an application is complete, the Supervisor or the Supervisor's designee shall assign a number to it, based on the order in which it was received. Other applications, if any, may be received, but they shall be reviewed for completeness only in the order received, and, if complete, shall be considered for approval of a permit only in the order received, and only if a permit for the same type of marijuana facility is then available.
- f. The Township Board shall approve an application, deny it, or approve it with conditions in the permit necessary to verify or assure compliance with this ordinance and the Act. In considering issuance of a permit, the Supervisor or designee shall apply the following standards:
  - (1) The marijuana facility shall comply with Act 281, other applicable state laws and the Rules.
  - (2) The marijuana facility shall comply with this ordinance.
  - (3) The location of the marijuana facility shall comply with applicable provisions of the Township zoning ordinance.
  - (4) The site plan of the marijuana facility shall comply with the applicable site plan requirements for such a facility under the terms of this ordinance.
  - (5) An applicant who has demonstrated experience in owning and/or operating some type of marijuana facility, or who has had demonstrated experience as a registered primary caregiver, may be given preference for issuance of a permit over other less experienced applicants.
- g. If the application is approved, the Supervisor shall issue a marijuana facility permit to the applicant on a Township permit form for such purpose, after the applicant has paid the marijuana facility fee for the one-year duration of the permit. If the applicant has not paid the facility fee within 10 days after written notice that the application has been approved, the application shall no longer be approved and the applicant shall be notified in writing accordingly.

The permit shall include terms and conditions consistent with this ordinance, any conditions imposed by the Supervisor, Supervisor's designee, or the Board of Trustees, and such other provisions as are relevant to the type of marijuana facility, the location thereof and anticipated operations.
- h. If the application is denied, the Supervisor shall so inform the applicant by letter, which shall include the reasons for the denial.
- i. An applicant shall have the right to appeal a permit denial to the Township Board. The appeal shall be submitted in writing and shall state the grounds for appeal and other relevant information the applicant may include. The written appeal shall be submitted not later than 10 days after the date of the Supervisor's written denial of the application; if the written appeal is not received by the Supervisor by that time, the right of appeal shall have lapsed and be of

- no further effect.
- j. The applicant's appeal shall be scheduled to be heard at a Township Board meeting. The applicant shall be given at least 10 days' written notice of the date, time and place for the hearing of the appeal. At the appointed time, the applicant may address the Board concerning the appeal. The written decision on the appeal, whether by motion or resolution, shall be forwarded to the applicant.
  - k. The permit shall be for a period not longer than one year.
  - l. The permit shall be renewable annually with approval of the Township Board. A permit holder desiring renewal shall apply for the same by completing a Township form for such purpose, shall pay any required renewal fee and shall make any required escrow deposit for reimbursement of Township expenses in the matter.
    - (1) With the renewal application, the applicant shall submit either a revised site plan, if any of the elements of the previously submitted site plan have changed, or otherwise the applicant shall submit a statement that the previous site plan remains accurate as to the matters depicted therein.
    - (2) The Township Board shall consider the renewal application in the same manner and under the same requirements as for an original application, except that in considering the renewal, the Supervisor or the Supervisor's designee may consider any violations on the part of the applicant during the previous period of the permit.
    - (3) The Township Board shall approve the renewal application, reject it, or approve it with conditions. If approved, a new permit, for a period of one year, shall be issued to the applicant. If rejected, the Supervisor or the Supervisor's designee shall state the grounds thereof in a letter to the applicant. Any such rejection shall be appealable to the Township Board.
    - (4) Upon receiving a renewed permit, the applicant shall pay to the Township the annual marijuana facility fee. The renewed permit shall not be valid until the fee is paid.
  - m. By accepting a permit, the applicant shall consent to inspection of the applicant's marijuana facility by Township officials and/or by the Washtenaw County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance and the Act. Such inspection may include examination of the applicant's submissions of information into the statewide monitoring system. A Marijuana Facility shall be available for inspection upon request by the Supervisor, Zoning Administrator, Building Official, Enforcement Officer, Fire Department, or State and Local Law Enforcement Officials for compliance with all applicable laws and rules.
  - n. Information that the Township obtains from an applicant relating to a Township permit under this Section is exempt from disclosure under the Michigan Freedom of Information Act, in accordance with Section 205 of Act 381. Neither the Clerk nor other Township official or employee shall disclose any such information in response to a Freedom of Information Act request. All papers and other materials received from an applicant, prepared by the Township or other materials, including e-mails and other electronic-based materials, shall be filed separately from other Township files.

**Section 7.7 Annual Marijuana Facility Fee.** There is hereby established an annual nonrefundable Township marijuana facility fee (the "facility fee") in the amount of \$5,000, for each permitted marijuana facility. Said fee shall be to defray the costs incurred by the Township for inspection, administration, and enforcement of the local regulations regarding a Marijuana Facility. If both a growing facility and a

processing facility are located together at one location, each shall have a permit under this ordinance and each shall pay the annual facility fee. Timely payment of the fee is a condition of the marijuana facility permit.

### **Section 7.8 Standards for Operations.**

- a. Minimum lot size. A minimum lot size shall be applied as follows:
  - (1) The subject property on which the facility will be located shall be a minimum of 10 acres.
- b. Minimum Yard depth/distance from Lot Lines. The minimum front setback for any structure used for marijuana production shall be 250 feet. The rear, and side yard setbacks for any structure used for marijuana production shall be 100 feet.
- c. Indoor Production and Processing. Marijuana growing, production and processing shall be located entirely within one completely enclosed building.
- d. Maximum Building Floor Space. A maximum of 10,000 square feet of building floor space may be used for any and all activities associated with marijuana growing, production and processing on the subject property. If two facilities are located on the same property, both facilities must operate within the maximum 10,000 square feet limitation.
- e. Lighting. Lighting shall be regulated as follows:
  - (1) Light cast by light fixtures inside any building used for marijuana growing, production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
- f. Odor. As used in this subsection, building means the building, or portion thereof, used for marihuana production or marijuana processing.
  - (1) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated charcoal filter.
  - (2) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - (3) The filtration system shall be maintained in working order and shall be in use. The filters shall be maintained in working order and shall remain in use. The filters shall be changed a minimum of once every 365 days.
  - (4) Negative air pressure shall be maintained inside the building.
  - (5) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - (6) An alternative odor control system is permitted if the special use permit applicant submits an alternative odor control system and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise

required. The municipality may hire an outside expert to review the alternative system design and advise the Township as to its comparability and whether, in the opinion of the expert, it should be accepted.

- g. Location. A permitted facility must be at least 1.5 miles from another permitted facility held by another permit holder, except as permitted in Section 7.3(b) of this ordinance.
- h. Landscaping. The property on which the facility is located shall be attractively landscaped so as to obscure view of the facility from public thoroughfares.

#### **Section 7.9 Reclamation, Abandonment or Cessation of permitted activities.**

- a. A surety bond, irrevocable bank letter of credit, or security deposit in the amount of \$ 25,000 shall be filed upon issuance of the permit. A complete reclamation plan shall be filed with the Township Clerk consistent with this Section.
- b. Upon abandonment or cessation of permitted activities of the licensed premises, the permit holder shall have 12 months to sell the permitted land to another licensed grower or processor. If the land is not sold within 12 months or converted to another use permitted by the Township ordinance, all structures built or maintained for the operation of the facility permit will be subject to the operator's reclamation plan. If the permit holder fails to implement the reclamation plan within eighteen (18) months after abandonment or cessation of permitted activities on the licensed premises, the surety bond, irrevocable bank letter of credit, or security deposit placed with the Township will be used by the Township to implement the reclamation plan. If the surety bond, irrevocable bank letter of credit, or security deposit does not cover the costs of the reclamation, the permit holder will be liable to the Township for all additional costs.
- c. A successor purchasing a currently or previously licensed permitted premises is not entitled to a permit and must submit a new application and gain approval from the Township Board for a new permit before commencing operation on a premises. The acquisition of a permitted premises does not confer any permit rights upon the purchaser nor automatically qualify for a new permit from the Township.
- d. The reclamation surety bond, irrevocable bank letter of credit, or security deposit, or what remains of it, will be released by the Township only after: the reclamation project is done; after a successor organization, if a Marihuana Facility requiring a State Operating License, posts a new bond; a purchaser other than a Marihuana Facility requiring a State Operating License has purchased the permitted premises.

#### **Section 7.10 Violations and Penalties.**

- a. Anyone found to be in violation of this Ordinance shall be responsible for a municipal civil infraction in addition to any other fines or penalties applicable under other law. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Additionally, a person who violates any provision of this Ordinance shall reimburse Sharon Township for any and all costs, direct or indirect, which Sharon Township has incurred in connection with any such violation.
- b. Each day during which any violation continues shall be deemed a separate offense.
- c. In addition, the Township may seek injunctive relief against any person or persons alleged to

be in violation of this ordinance, and such other relief as may be provided by law. <sup>123</sup>

#### **Section 7.11 Revocation of Permit.**

- a. A marijuana facility permit may be revoked by the Township Board for noncompliance with Act 281, other applicable state laws and Rules, this ordinance, the zoning ordinance or other applicable Township ordinances. Such revocation shall be in addition to any other fine or penalty that might be issued<sup>124</sup>.
- b. The Township Supervisor shall give written notice to the permit holder of the Township Board's intent to revoke the permit. The notice shall state the reasons for the proposed revocation. The notice shall state that the applicant may attend a hearing before the Township Board of Trustees, and may be heard, as to the revocation. At least 10 days' notice of the hearing shall be given; the notice shall state the date, time and place of the hearing. At or prior to the hearing, the applicant may submit written comments with respect to the proposed revocation. <sup>125</sup>
- c. Following the hearing, the Township Board may, in writing, revoke the permit, elect not to revoke the permit or may impose additional terms and conditions in the permit for the purpose of gaining compliance as to the matters for which revocation was considered.
- d. The revocation of a permit shall not entitle the permit holder to any refund of the annual marijuana facility fee or other fees or charges paid under the terms of this ordinance; any unused escrow deposit amounts shall be returned.
- e. A permit holder may appeal the revocation of a permit to the Township Board, by filing a written appeal with the Supervisor within 10 days after the Supervisor has issued the written revocation, but there shall be no appeal after such period of time. The hearing of the appeal and the notice thereof shall be carried out under the same procedures and with the same notice as is provided in this ordinance for an appeal of a denial of a marijuana facility application.

---

<sup>123</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>124</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>125</sup> Amended February 4, 2021. Effective February 18, 2021.

**Article 8. PROHIBITION OF MARIHUANA ESTABLISHMENTS (REPEALED)<sup>126</sup>**

---

<sup>126</sup> Repealed on February 2, 2023.

# Chapter V: Utilities

## Article 1. ELECTRIC FRANCHISE

**Section 1.1 Grant Term.** The Township of Sharon, Washtenaw County, Michigan, hereby grants the right, power and authority to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the Township of Sharon, Washtenaw County, Michigan, for a period of thirty years.<sup>127</sup>

**Section 1.2 Consideration.** In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.<sup>128</sup>

**Section 1.3 Conditions.** All of Grantee's towers, masts and poles shall be neat and slightly, and so placed on either side of the highways, streets, alleys and bridges as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets and alleys shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good condition as when work was commenced. The Grantee shall have the right to trim trees if necessary, in the conducting of such business, subject, however, to the supervision of the highway; authorities.<sup>129</sup>

**Section 1.4 Hold Harmless.** Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures hereby authorized. In case any action is commenced against the Township on account of the permission herein granted, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.<sup>130</sup>

**Section 1.5 Rates.** Said Grantee shall be entitled to charge the inhabitants of said Township for electric energy furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Township, acting by its Township Board, or by said Grantee.<sup>131</sup>

**Section 1.6 Franchise Not Exclusive.** The rights, power and authority herein granted, are not exclusive.<sup>132</sup>

---

<sup>127</sup> Ord. No. 17, §1, adopted, January 7, 1988

<sup>128</sup> Ord. No. 17, §2, adopted, January 7, 1988

<sup>129</sup> Ord. No. 17, §3, adopted, January 7, 1988

<sup>130</sup> Ord. No. 17, §4, adopted, January 7, 1988

<sup>131</sup> Ord. No. 17, §5, adopted, January 7, 1988

<sup>132</sup> Ord. No. 17, §6, adopted, January 7, 1988

**Section 1.7 Revocation.** The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.<sup>133</sup>

**Section 1.8 Michigan Public Service Commission, Jurisdiction.** Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.<sup>134</sup>

---

<sup>133</sup> Ord. No. 17, §7, adopted January 7, 1988

<sup>134</sup> Ord. No. 17, §8, adopted January 7, 1988



**Article 2. CONSUMERS ENERGY COMPANY GAS FRANCHISE<sup>135</sup>**

**Section 2.1 Grant and Term.** The Township Of Sharon, Washtenaw County, Michigan, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called "Consumers" the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and valves on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the Township Of Sharon, Washtenaw County, Michigan, for a period of thirty years.

**Section 2.2 Conditions.** No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall be restored to the same order and condition as when work was commenced. All of Consumers' gas lines and related facilities shall be placed as not to unnecessarily interfere with the public's use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.

**Section 2.3 Hold Harmless.** Consumers shall save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the lines and related facilities hereby authorized. In case any action is commenced against the Township on account of the permission herein given, Consumers shall, upon notice, defend the Township and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

**Section 2.4 Extensions.** Consumers shall construct and extend its gas distribution system within said Township, and shall furnish gas service to applicants residing therein in accordance with applicable laws, rules and regulations.

**Section 2.5 Franchise Not Exclusive.** The rights, power and authority herein granted, are not exclusive.

**Section 2.6 Rates and Conditions.** Consumers shall be entitled to provide gas service to the inhabitants of the Township at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

**Section 2.7 Revocation.** The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation this ordinance shall be considered repealed and of no effect past, present or future.

**Section 2.8 Michigan Public Service Commission Jurisdiction.** Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to gas service in the Township and those rules and regulations preempt any term of any ordinance of the Township to the contrary.

---

<sup>135</sup> Adopted on March 3, 2022. Effective April 6, 2022.

**Article 3. MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE**

**Section 3.1 Grant of Gas Franchise and Consent to Laying of Pipes, Etc.** Subject to all the terms and conditions mentioned in this ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Township of Sharon, Washtenaw County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said Township of Sharon for the purposes of conveying gas into and through and supplying and selling gas in said Township of Sharon and all other matters incidental thereto.<sup>136</sup>

**Section 3.2 Installation and Extension of System.** If the provisions and conditions herein contained are accepted by the Company, as in Section 3.6 hereof provided, then within not more than one (1) year following the later of the date upon which this ordinance takes effect and the date upon which the Company receives such regulatory approval as may be necessary for the Company to convey gas to the Township of Sharon and to construct and operate its facilities therein, the Company shall determine the area within the Township of Sharon to be served initially and commence the installation of a gas distribution system within such area, and the Company shall thereafter proceed to complete said initial installation as soon as reasonably practicable; provided, however, that the Company shall not be held responsible for delays due to weather or labor conditions, inability to procure necessary materials, or other causes beyond its control; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.<sup>137</sup>

**Section 3.3 Use of Streets and Other Public Places.**

- a. The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Township of Sharon and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. For three years after any opening in highways, streets, alleys or other public places, the company, its successors and assigns, shall be responsible for maintaining the repair to the opening. The Company shall repair and replace any vegetation damaged or destroyed in connection with any opening of highways, streets, alleys or other public places. If any tree in any highway, street, alley or public place is destroyed or dies within two years of any activity of the company, in connection with this franchise, the Company shall replace it with a suitable tree or trees having a total d.b.h. (diameter at breast height) equal to or greater than d.b.h. of the tree that died or was destroyed. The Company will insure that none of the openings or repairs will cause a soil erosion, drainage or sedimentation nuisance. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said Township of Sharon for all damages and costs which may be recovered against Township of Sharon arising from the default, carelessness, or negligence of the company or its officers, agents, and servants. The Company, its successors and assigns, shall indemnify, defend and hold harmless the Township, its officers and employees regarding any claims arising out of its activities in the Township including the excavation, use or repair of highways, streets, alleys or other public places pursuant to this franchise. The Company its successors

---

<sup>136</sup> Ord. No. 19, §1, adopted February 2, 1995

<sup>137</sup> Ord. No. 19, §2, adopted February 2, 1995

and assigns shall indemnify, defend and hold harmless the Township, its officers and employees with regard to any claim regarding the validity or propriety of this franchise.

- b. No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Highway Commissioner or the Township of Sharon or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Highway Commissioners or the Township Board, or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed. Issuance of the permit may be conditioned upon payment of a fee to compensate the authority having jurisdiction for necessary inspection and enforcement of the franchise standards.<sup>138</sup>

**Section 3.4 Standards and Conditions of Service; Rules, Regulations and Rates.** The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the Township of Sharon under the orders, rules, and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.<sup>139</sup>

**Section 3.5 Successors and Assigns.** The words "Michigan Consolidated Gas Company" and "the Company", wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.<sup>140</sup>

**Section 3.6 Effective Date: Term of Franchise Ordinance: Acceptance by Company.** This ordinance shall take effect the day following the date of publication thereof, which publication shall be made within thirty (30) days after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter, subject to revocation at the will of the Township of Sharon at any time during said thirty (30) year period; provided, however, that when this ordinance shall become effective the Township Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, sixty (60) days after receipt of the above documents, file with the Township Clerk its written acceptance of the conditions and provisions hereof.<sup>141</sup>

---

<sup>138</sup> Ord. No. 19, §3, adopted February 2, 1995

<sup>139</sup> Ord. No. 19, §4, adopted February 2, 1995

<sup>140</sup> Ord. No. 19, §5, adopted February 2, 1995

<sup>141</sup> Ord. No. 19, §6, adopted February 2, 1995

## Article 4. COMMUNITY WASTEWATER UTILITY SYSTEMS

### Section 4.1 General.

- a. Intent and Purpose. The majority of the land area of Sharon Township relies on individual on-site wastewater disposal systems. Although the Township may, in the future, provide public wastewater disposal within designated sewer service areas, it is unlikely that the land area served by the public sewer system will ever cover a significant portion of the Township.<sup>142</sup>

Pursuant to the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, as amended, the Michigan Department of Environmental Quality ("MDEQ") is authorized to issue permits for on-site sewage disposal systems that service more than one property (referred to herein as a "community wastewater utility system" or "CWSU"). The Township recognizes that a community wastewater utility system may, some circumstances, be in the best interests of the health, safety, and welfare of the Township and the residents. The Township, however, requires assurance that any community wastewater utility system will be designed, constructed, operated, maintained, repaired and/or replaced in a manner that best serves and protects the health, safety, and welfare of the Township and its residents. Furthermore, the Township requires that it shall be indemnified by the owner and operator of the community wastewater utility system from any costs or liability in connection with the design, construction, operation, maintenance, repair and/or replacement of that system. The Township also recognizes if a community wastewater utility system fails or does not properly function or if the owner or operator of the community wastewater utility system fails or is unable to continue to operate the system, public sewer may not be available due to the location of a development in proximity to designated sewer system areas. In certain circumstances, the Township may be required to take over the operation of the community wastewater utility system in order to protect the health, welfare and safety of residents of the Township. To this effect, this Ordinance is intended to regulate community wastewater utility systems to provide those assurances.

- b. Township's Authority. This Ordinance is enacted under the authority of the Township's general police powers to protect the health, safety, and welfare of its residents and under the authority of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, as amended.<sup>143</sup>

### Section 4.2 Definitions.

- a. "Act 451" means the Natural Resources and Environmental Protection, Act 451 of the Public Acts of 1994 as amended, MCL 324.101 et seq.
- b. "Applicable Sewer Laws" means all applicable laws, regulations and standards of and permits issued by the Michigan Department of Environmental Quality ("MDEQ"), the Michigan Department of Public Health ("MDPH"), the Washtenaw County Health Department ("WCHD"), the Michigan Public Service Commission and any other applicable laws and regulations of the federal government, State of Michigan, Washtenaw County, and the Township which relate or apply to the operation of public or private sewer systems.
- c. "Applicant" means a person or entity having an ownership or other contractual interest in land who proposes to construct a CWUS on the land. The Applicant may also be the CWUS Owner.

<sup>142</sup> Amended February 4, 2021. Effective February 18, 2021.

<sup>143</sup> Ord. 2007-1, §1 adopted January 4, 2007

- d. "Association (Condominium)" means an "association of co-owners" as defined in the Condominium Act, Act No. 59 of the Michigan Public Acts of 1978, as amended, meaning the person designated in the condominium documents to administer the condominium project.
- e. "Association (Non-condominium)" means the homeowners or property owners organized as a non-profit corporation or organized pursuant to deed restrictions and/or restrictive covenants in a particular Development who are authorized to govern the affairs of that subdivision or other Development. An Association may also be the CWUS Owner.
- f. "Community Wastewater Utility System or System ("CWUS")" refers to a facility which is owned by a non-governmental entity and is designed, constructed, operated, and maintained to transport, collect, process, and treat sanitary sewage from more than one dwelling unit or structure. The system shall include any individual septic tanks, pumps, lines, and appurtenances serving each dwelling unit or structure in addition to facilities, sewers and appurtenances that serve more than one dwelling unit or structure.
- g. "CWUS Owner" means a legal entity of perpetual duration that owns the facilities and assets of the CWUS. The CWUS Owner may also be the CWUS Operator if it meets all of the requirements of a CWUS Operator.
- h. "CWUS Operator" means a legal entity of perpetual duration that is responsible for the day-to-day operation and maintenance of the CWUS and insuring compliance with all permits and applicable laws and regulations.
- i. "CWUS Permit" means the permit issued by the Township pursuant to this Ordinance.
- j. "Development" means either a (1) subdivision as defined by the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended, (2) a condominium pursuant to the provisions of the Condominium Act, Act No. 59 of the Public Acts of 1978, as amended, or (3) any group of dwellings or structures which are proposed to be serviced by a CWUS.
- k. "Development Agreement" means the agreement described in Section 4.3.d.6 below.
- l. "Development Documents" means the articles of incorporation and bylaws of an Association and
  - 1) with regard to a condominium project, the master deed and bylaws provided by the Condominium Act, Act No. 59 of the Public Acts of 1978, as amended; or
  - 2) with regard to subdivisions or other developments, deed restrictions, subdivision plats, development agreements and/or restrictive covenants, including deed restrictions required by this Ordinance
- m. "Expansion" means any activity whereby additional dwelling units, structures or users shall be added to or an alteration is made of an existing system.
- n. "Public Sanitary Sewer System" means a publicly-owned sanitary sewer system
- o. "MDEQ" refers to the Michigan Department of Environmental Quality, or its successors

- p. "Residential Owner" means the owner of a fee simple interest, a land contract purchaser, or owner of a unit in a condominium, of property which is serviced or is proposed to be serviced by a CWUS.
- q. "Township" refers to Sharon Township Washtenaw County, Michigan, acting through its duly elected Township Board.<sup>144</sup>

### **Section 4.3 Regulations.**

- a. Regulations.
  - (1) Except as provided in this Ordinance, it shall be unlawful to construct, install, or operate a CWUS within the Township.
  - (2) Community wastewater utility systems shall require a conditional use permit from the Township Board in accordance with the procedures and standards set forth in Article 5 of the Sharon Township Zoning Ordinance.
  - (3) Pursuant to the terms of Section 4.3.f of this Ordinance, the Township Board shall review and approve or deny the CWUS Permit Application pursuant to this Ordinance and shall authorize the issuance of a CWUS Permit only after a conditional use permit has been approved pursuant to the Sharon Township Zoning Ordinance and the Board determines that the applicant has met all the standards requirements and regulations contained in this Ordinance.
- b. Qualifications for a CWUS Owner. The CWUS Owner shall be the Association, the Applicant or other entity of perpetual duration approved by the Township with the capacity to own and operate the CWUS (or to contract with a CWUS Operator for operation of the CWUS) for the benefit of the Association and the Residential Owners and who meets the requirements of Section 4.3.e of this Ordinance. The CWUS Owner shall have the capacity to and shall perform all obligations of the CWUS Owner under the CWUS Permit, all necessary approvals or permits issued by any other entity having jurisdiction pursuant to the Applicable Sewer Laws, including but not limited to MDEQ approval under Act 451, the Development Agreement, the agreement with the CWUS Operator, and the Development Documents.
- c. Qualifications for a CWUS Operator. The CWUS Operator shall employ one or more individuals who have all qualifications and certifications required under Applicable Sewer Laws to operate the CWUS.
- d. Requirements for approval.
  - (1) The design, construction, and operation of the proposed CWUS shall comply with the terms of this Ordinance and the Applicable Sewer Laws.
  - (2) No new CWUS or an expansion of an existing system shall be constructed, installed, or operated within the Township unless the plans for the construction, installation and operation of the system have been approved by the Township, and all other governmental authorities having jurisdiction over the construction and maintenance of a CWUS, including but not limited to Washtenaw County, the Michigan Department of Public Health, the MDEQ and the Michigan Public Service Commission.

---

<sup>144</sup> Ord. 2007-1, §2 adopted January 4, 2007

- (3) The Applicant shall provide the following to the Township before approval for a CWUS may be granted.
- (4) A certification from an engineer on behalf of the CWUS Owner stating that the system as designed and constructed will adequately process wastewater as required by all Applicable Sewer Laws. The Township engineer shall review and make a recommendation regarding the adequacy of such certification.
- (5) An executed CWUS Operating Agreement between the Applicant, CWUS Owner, the CWUS Operator and/or Association containing provisions for:
  - i. inspection, operation, maintenance, repair, and replacement of the system;
  - ii. the imposition and collection of charges for connection to, and use, operation, maintenance, repair, and replacement of the system;
  - iii. compliance with all Applicable Sewer Laws and agreements regarding the CWUS; and
  - iv. establishment, maintenance and capital expenses.

The CWUS Operating Agreement must include a provision that the Agreement may not be terminated so long as the system is serving the Development, except that the CWUS Operating Agreement may be assigned to another CWUS Operator in accordance with the Applicable Sewer Laws and upon prior written approval of the Township. The CWUS Operating Agreement shall provide that it may not be terminated, amended, renewed or substituted without Township written approval. The Township attorney and Township engineer shall review and make a recommendation regarding the adequacy of such an agreement or any amendment thereto. A proposed CWUS Operating Agreement must be submitted with the application for the CWUS Permit.

- (6) An executed Development Agreement between the Applicant, CWUS Owner, and/or the Association, and the Township in a form acceptable to the Township. The Development Agreement shall:
  - i. Provide that the Applicant, CWUS Owner, and/or Association are jointly and severally responsible for the operation, inspection, monitoring, maintenance, repair, retention and replacement of the system and retaining a CWUS Operator.
  - ii. Specify standards for inspection, monitoring, operation, maintenance, repair and/or replacement of the system in accordance with the Applicable Sewer Laws and the guidelines recommended by the system manufacturer and the CWUS Operator. The Applicant will provide the proposed standards to the Township for review and approval and such standards shall be included in the Development Documents.
  - iii. Require indemnification of the Township, including a duty to defend, by the Applicant, CWUS Owner, and Association, jointly and severally, from any and all costs, expenses and liability incurred by the Township with respect to the community wastewater treatment utility system, including but not limited

- to the operation, maintenance, repair and replacement of all or a part of the system.
- iv. Require that the Applicant, CWUS Owner, CWUS Operator and Association shall provide a policy of casualty insurance for the replacement value of the insurable components of the system and comprehensive general liability insurance with limits acceptable to the Township, naming the Township as an additional insured, and shall provide the Township with a copy of the policy each year. All insurance policies shall be issued by an insurer registered/licensed to issue insurance in Michigan and with an AM. Best Rating acceptable to the Township. No policy of such insurance shall be cancelled or permitted to lapse without 30 days advance written notice to the Township and without securing similar coverage.
  - v. Unless waived by the Township, a statement acknowledging that the Applicant, Owner and or Association shall provide a policy of liability insurance for sudden and accidental environmental contamination with limits of a minimum of \$5,000,000.00, naming the Township as an additional insured and providing coverage for claims discovered within three (3) years after the term of the policy at a minimum. The Township shall be provided with a copy of this policy each year.
  - vi. Grant the Township authority, at its sole discretion, to require that the CWUS be abandoned and all properties in the development be connected at the expense of the Association and Residential Owners to any publicly-owned community sewer system which may be constructed in the future and available to the Development.
  - vii. Grant the Township the right to purchase for the sum of \$1.00:
    1. marketable title to any lands required to be titled in the name of the Township by governmental or regulatory requirements, or
    2. easements reasonably deemed by the Township to be necessary in conjunction with the Township's assumption of responsibility for the CWUS or future publicly-owner community sewer system.
  - viii. Provide that the Township in its sole discretion may remove all trees, shrubs, brush, vegetation or other similar impediments that may interfere with the operation of the CWUS.
  - ix. Consent to the creation of a special assessment district to be established as described in Section 4.3.d.20 below.
  - x. Transfer ownership and operation of the CWUS to the Township in the event that the CWUS Owner:
    1. becomes insolvent or goes into bankruptcy or receivership, or
    2. fails to maintain the required operating, maintenance and capital reserves required by this Ordinance within 6 months after written notice



from the Township that the reserves do not meet Ordinance requirements, or

3. is unable, unwilling or fails for any reason to operate the CWUS in full compliance with Applicable Sewer Laws where failure to meet such requirements in 6 successive months or in more than 8 months in a 12-month period shall be conclusively determined to be an inability to comply with Applicable Sewer Laws.

In the event that the Township assumes ownership of the CWUS, the Township shall hold and operate the CWUS for the benefit of the Association and Residential Owners. The Township may transfer the facilities, assets and reserves of the CWUS to a new CWUS Owner on the condition that such facilities, assets or reserves be used solely for providing sewer services to the Residential Owners.

- xi. Grant the Township the right to inspect any part of the CWUS for compliance with the Development Agreement and all Applicable Sewer Laws, consenting to personal jurisdiction and venue in Washtenaw County or U.S. District Court for the Eastern District of Michigan agreeing that money damages cannot make the Township whole for damages arising out of the breach of the Development Agreement, and agreeing to injunctive remedies in any action brought by the Township to enforce the Development Agreement or enforce compliance with Applicable Sewer Laws.
- (7) The provisions of the Development Agreement referenced in section 4.3.d.6 above and other obligations of the Association and Residential Owners shall be included in a separate document, in form approved by the Township attorney, and included within the Development Documents that shall run with the land, including but not limited to the condominium disclosure documents for a condominium project, and in a separate recordable document for all forms of development, and be delivered to the prospective purchaser prior to the execution of a purchase agreement for property proposed to be serviced by a community wastewater utility system.
  - (8) A permanent and irrevocable easement, in recordable form, shall be granted by the Owner and/or Association to the Township and its employees, agents, and assigns authorizing them to enter on the Development and the property upon which the system is located for the purpose of inspections. The property on which the system is located shall be maintained so it is accessible at all times, prohibiting any structures or landscaping within such area that would unreasonably interfere with such access.
  - (9) Each CWUS shall be a general common element of a condominium in which it is located, or part of common areas of any other Development. The system shall be inspected, monitored, operated, maintained, repaired and replaced by the CWUS Owner of Association with the right of the CWUS Owner or Association to assess the Residential Owners for all such costs.
  - (10) Each CWUS Owner shall maintain a reserve sufficient for five (5) years of monitoring, inspection, operation, maintenance and repair of the system and an adequate replacement reserve in the amounts certified by a design engineer or the CWUS Operator and required by the applicable governmental entities and shall be subject to

Township review and approval. The CWUS Operator and the Association shall provide the Township with evidence of the reserves annually.

- (11) A copy of the Articles of Incorporation and Bylaws of the Association and a copy of the form of the restrictive covenant/deed restrictions/or master deed imposing upon Residential Owners the obligation to pay for all capital and operating costs and reserves associated with the CWUS.
- (12) Evidence satisfactory to the Township Board that the CWUS Operator employs one or more individuals who have all qualifications and certifications required under Applicable Sewer Laws to operate the system.
- (13) Evidence satisfactory to the Township that the CWUS Owner has the qualifications to own the CWUS.
- (14) No building permit shall be used for any structure or dwelling unit proposed to be serviced by a CWUS until the Township Board has approved such system in accordance with terms and provision of this Ordinance.
- (15) The Township shall inspect the system:
  - i. during construction and
  - ii. after construction is completed by an independent engineer or consultant to ensure proper construction and installation of the system.

The Township shall not issue a CWUS Permit until the Township has certified that the CWUS has been constructed according to the approved plans and specifications.

- (16) The Township will inspect the system manually to insure compliance with this Ordinance. The Township will retain the services of an engineer or other qualified consultant to conduct this inspection and the cost will be paid for by the Applicant or CWUS Owner. To this end the Applicant or CWUS Owner shall, by January 1st of each year, pay into an escrow account maintained by the Township an amount estimated by the Township to be necessary to pay for the expense of such engineer or consultant.
- (17) Anything in this Ordinance to the contrary notwithstanding, the Township shall not be responsible or obligated to perform any needed or desired repairs, maintenance, improvement, and/or replacement of the system or any portion thereof.
- (18) The CWUS Owner, CWUS Operator and/or Association shall furnish periodic operating and maintenance reports in accordance with the maintenance requirements and schedule. Any such requirements shall be made a part of the Development Documents.
- (19) After the Township's approval, the Development Documents and the Development Agreement shall be recorded at the office of the Washtenaw County Register of Deeds prior the first sale of any unit, lot or parcel served by a CWUS. After approval by the Township, the Development Documents, as they pertain to the system, shall not be amended without Township approval. The Development Documents shall contain language to that effect.

(20) Prior to recording the Development Documents and sale of any unit, lot or parcel served by a CWUS, the Applicant shall circulate or initiate a petition for the Township to establish a special assessment district for the Development, the purpose of which shall be to provide for assessment of the units, lots or parcels in each development by the Township for the costs of construction, improvement and maintenance, of the CWUS or any other purposes authorized by law in the event the Association shall fail to properly perform such work or in the event the Township takes control of the CWUS. If the Applicant or CWUS Owner petitions for a district under the Township Public Improvement Act, Public Act 188 of 1954), the record owners as defined by Act 188 of property benefitted by the CWUS shall execute a petition legally sufficient for the establishment of a special assessment district, using petition forms acceptable to the Township, in order to allow for financing the construction, improvement, and maintenance of the CW US. If the Applicant determines to proceed to create a special assessment district under a different statute than Act 188 such as the Drain Code, the Applicant shall circulate or initiate a petition meeting the standards of that statute.

(21) The Association, CWUS Owner, Residential Owners and the Applicant shall be jointly and severally responsible for all costs involved in the installation, operation, maintenance, repair, replacement of equipment and facilities and liability associated with the system. The Township may, at its option, elect to collect all costs, including actual legal fees it may incur in connection with the system, pursuant to the other provisions of this Ordinance, or by direct court action against the Association, CWUS Owner and Residential Owners, and Applicant.

e. Transfer of Ownership of the CWUS

(1) The CWUS Owner shall not transfer, convey or assign any facilities or assets of the CWUS required for the ongoing operation of the CWUS in compliance with this Ordinance and Applicable Sewer Laws, except as provided in this Section.

(2) The CWUS Owner shall not transfer, convey or assign the facilities and assets of the CWUS without (i) approval of the Township Board, (ii) a demonstration that the entity seeking to become the new CWUS Owner meets all requirements of a CWUS Owner under this Ordinance and can fulfill all duties and obligations of a CWUS Owner under the CWUS Permit, all necessary approvals or permits issued by any other entity having jurisdiction pursuant to the Applicable Sewer Laws, including but not limited to MDEQ approval under Act 451 the Development Agreement, the Development Documents, and the agreement with the CWUS Operator; (iii) demonstration that the new CWUS Owner has established or has the right to receive a transfer of all required operating, maintenance and capital reserves and (iv) agreement by the new CWUS Owner to undertake all obligations imposed on a CWUS Owner under this Ordinance, the agreement with the CWUS Operator, the Development Agreement and the Development Documents.

(3) Transfer of ownership of the CWUS by a CWUS Owner shall not relieve such owner - from civil or criminal liabilities arising under this Ordinance or any Applicable Sewer Laws nor from the obligation to comply with any court-ordered injunctive relief related to obtaining or enforcing compliance with this Ordinance or Applicable Sewer Laws that accrue or arise prior to the date of Township Board approval of the transfer.

f. Permit to Operate a CWUS

- (1) No CWUS may be constructed, installed or operated within the Township without a CWUS Permit.
- (2) Township Board approval of the CWUS pursuant to this Ordinance and Township Zoning Ordinance shall serve as the permit to construct and install the CWUS, which permit shall not become effective until the CWUS has received all necessary approvals by any other entity having jurisdiction pursuant to the Applicable Sewer Laws, including but not limited to MDEQ approval under Act 451. The Township Board approval of the CWUS pursuant to this Ordinance and Township Zoning Ordinance shall also serve as the CWUS Permit, which CWUS Permit shall not become effective until the CWUS has received all necessary approvals by any other entity having jurisdiction pursuant to the Applicable Sewer Laws, including but not limited to MDEQ approval under Act 451.
- (3) The CWUS Owner shall annually submit the following information to the Township:
  - i. The name of the CWUS Operator and a copy of the current contract between the CWUS Owner and CWUS Operator, and current copies of all required certifications for individuals operating the CWUS.
  - ii. Proof that the CWUS Owner and CWUS Operator meet the insurance and other requirements under this Ordinance.
  - iii. A certification with supporting documentation from a financial institution that the required operating, maintenance and capital reserves are maintained.
  - iv. The operating budget for the CWUS together with a schedule of all user fees and charges.
  - v. A certification from a licensed professional engineer with expertise in wastewater systems that (i) sets forth the maintenance, repair and replacement needs or recommendations for the CWUS for the 12-month period coinciding with the upcoming permit year together with an estimate of likely associated expenses, and (ii) states without exception or reservation that the condition of the CWUS, together with operating budget and the satisfaction of the maintenance, repair and replacements needs, is such that the CWUS is capable of meeting all discharge limitations and other requirements related to unacceptable direct environmental impacts (e.g., noise, odor, and airborne emissions) during the permit year.
  - vi. Copies of all approvals and permits required by the Applicable Sewer Laws.
- (4) The CWUS Owner shall notify the Township of any and all violations of the Applicable Sewer Laws, including but not limited to all MDEQ Permit Requirements.
- (5) The Township may attach reasonable conditions to the CWUS Permit to ensure compliance with the provisions of this Ordinance.
- (6) The CWUS Permit shall be deemed rescinded and canceled without further action of the Township in the event that any necessary approvals or permits issued by any other entity- having jurisdiction pursuant to the Applicable Sewer Laws, including but not limited

to MDEQ approval under Act 451, lapses, expires without renewal, is revoked by the entity having jurisdiction or otherwise ceases to be in effect.<sup>145</sup>

**Section 4.4 Fees, Penalties and Enforcement.**

a. Fees. An Application for CWUS approval under this Ordinance shall be accompanied by a non-refundable administrative application fee in an amount specified from time to time by resolution of the Sharon Township Board. In addition, an Applicant shall pay an additional escrow fee in an amount determined by resolution of the Sharon Township Board for the estimated cost of outside consultant(s) who may be retained by the Township in connection with the review of the application. In the event the cost of the services of the consultant(s) is less than the escrow fee, the Applicant shall be refunded the balance. In the event the cost of the services of the consultant(s) exceeds the amount of the escrow fee, the Applicant shall pay the deficiency to the Township prior to the issuance of a permit. A denial of an application for a permit shall not affect the Applicant's obligation to pay the escrow fee provided for in this Section.

b. Penalties and Enforcement.

(1) Enforcement. The Enforcement Officer or his/her agent, officer or employee shall have authority under this Ordinance to enter upon privately-owned land for the purpose of performing the Township's duties under this ordinance and may take or cause to be made such examinations, surveys or samplings as are deemed necessary.

(2) Civil Remedies. The provisions of this Ordinance shall be enforceable through any and all remedies at law or in equity in any court of competent jurisdiction.

i. Injunction. Any activity conducted in violation of this Section is declared to be a nuisance per se, and the Township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation, and/or requiring restoration of the property as nearly as possible to its condition before the violation

ii. Stop-Work Order. The Township may also issue a stop-work order or withhold issuance of a permits or inspection until the provisions of this Ordinance, including any conditions attached to a permit, have been fully met. Failure to obey a stop-work order shall constitute a violation of this Ordinance.

(3) Anyone found to be in violation of this Ordinance shall be responsible for a municipal civil infraction in addition to any other fines or penalties applicable under other law. The fines for any such violation shall be as set forth in the Township's Municipal Civil Infraction Ordinance. Additionally, a person who violates any provision of this Ordinance shall reimburse Sharon Township for any and all costs, direct or indirect, which Sharon Township has incurred in connection with any such violation. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.<sup>146</sup>

**Section 4.5 Ordinance Conflict.** Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes in the same subject matter; conflicting provisions of this Ordinance shall

<sup>145</sup> Ord. 2007-1, §3 adopted January 4, 2007

<sup>146</sup> Amended February 4, 2021. Effective February 18, 2021.

be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with relevant state regulations and statutes.<sup>147</sup>

**Section 4.6 Severability.** If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such holding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force. Rights and duties which have matured, penalties which have been incurred, proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.<sup>148</sup>

---

<sup>147</sup> Ord. 2007-1, §5 adopted January 4, 2007

<sup>148</sup> Ord. 2007-1, §6 adopted January 4, 2007