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SODUS TOWNSHIP BERRIEN COUNTY, MICHIGAN

COMPREHENSIVE ZONING ORDINANCE AMENDMENT

Ordinance Number 1
Adopted July 22, 2008
Effective Date August 5, 2008

ZONING ORDINANCE OF THE TOWNSHIP OF SODUS
Berrien County, Michigan

Ordinance Number 1

Repeals and replaces Ordinances Number 1, with all amendments through June 2006.

Adopted July 22, 2008
Effective August 5, 2008

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ORDINANCE NUMBER 1

Adopted July 22, 2008 Effective August 5, 2008

SODUS TOWNSHIP ZONING ORDINANCE

ARTICLE I

SHORT TITLE, ENABLING AUTHORITY, PREAMBLE AND ENACTING CLAUSE

The Township of Sodus, Berrien County, Michigan ordains:

Section 1.01 - Short Title

This Ordinance shall be known and may be cited as the "Sodus Township Zoning Ordinance."

Section 1.02 - Preamble and Purpose of this Zoning Ordinance

It is the express purpose and intent of this Zoning Ordinance, pursuant to the authority conferred by the Public Acts of the State of Michigan to promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character, social and economic stability of the residential, commercial, industrial and other use areas by: 1) securing the most appropriate use of land in the Township; 2) preventing overcrowding the land and undue congestion of population; 3) providing adequate light, air and reasonable access; and 4) facilitating adequate and economical provision of transportation, water, sewer, school, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

Section 1.03 - State Legislation Enabling Authority

This Ordinance is adopted pursuant to Act 110, Public Acts of 2007, as amended, governing the unincorporated portions of the Township of Sodus, Berrien County, Michigan; to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the Township into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used herein; to provide for enforcement; to establish a Board of Appeals; and to impose penalties for the violation of this Ordinance.

Section 1.04 - Scope and Applicability

After the date of enactment of this Ordinance, no building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

ARTICLE II PROVISION FOR AN OFFICIAL ZONING MAP

Section 2.01 - Official Zoning Map

The municipality is hereby divided into zones, or districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, and bearing the seal of the municipality under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of the Zoning Ordinance, Ordinance Number 1 of the Township of Sodus, Michigan" together with the date of the adoption of this ordinance.

If in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Township Board. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

Any unauthorized change on the Official Zoning Map by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article XXVI.

Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map which shall be located in the office of the Township Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Township.

Section 2.02 - Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Township Board, hereinafter also referred to as "Legislative Body", may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, hereinafter referred to as "Clerk", and bearing the seal of the municipality under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of the map being replaced) as part of Zoning Ordinance No. 1 of the Township of Sodus, Michigan".

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE III

RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Section 3.01 - Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries;
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Township Board may permit, as a Special Land Use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

ARTICLE IV
APPLICATION OF DISTRICT REGULATIONS

Section 4.01 - Application of Regulations

- A. The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to all structures and lands within each district.
- B. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations specified for the district in which it is located.
- C. No structure shall hereafter be erected or altered:
 - 1. to exceed the height or bulk;
 - 2. to accommodate or house a greater number of families;
 - 3. to occupy a greater percentage of lot area;
 - 4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or to be erected or altered in any other manner contrary to the provisions of this ordinance.
- D. No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- E. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein.
- F. Essential services shall be permitted as authorized and regulated by law and other ordinances of the municipality, it being the intention hereof to exempt such essential services from the application of this ordinance.

Section 4.02 - Conflicting Regulations; Imposition of Most Stringent Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or Ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or Ordinance shall govern.

ARTICLE V
NONCONFORMING LOTS, USES, AND STRUCTURES BOUNDARIES

Section 5.01 - Intent

- A. Within the districts established by this ordinance, or amendments that may later be adopted, there exist lots, land, structures, and uses thereof which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land, structure or combination thereof, shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises, of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.
- C. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 5.02 - Nonconforming Lots

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, in spite of limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. This also assumes that yard dimensions and requirements of the lot other than these applying to area or width, or both, shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Section 5.03 - Nonconforming Uses of Land (Or Land with Minor Structures Only)

- A. Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding One Thousand Dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
4. No additional structure, not conforming to the requirements of this ordinance, shall be erected in connection with such nonconforming use of land.

Section 5.04 - Nonconforming Structures

- A. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
 2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
 3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 5.05 - Nonconforming Uses of Structures or Structures and Premises in Combination

- A. If lawful use involving individual structures with a replacement cost of one Thousand Dollars (\$1,000.00) or more, or of structures and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district which it is located.
 2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
 3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a Special Land Use be changed to another nonconforming use provided that the Township Board, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Township Board may require appropriate conditions and safeguards in accord with the provisions of this ordinance.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for Twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction.

Section 5.06 - Repairs and Maintenance

- A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs.
- B. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided that the cubic content existing when it became nonconforming shall not be increased.

Section 5.07 - Uses Under Special Land Use Provisions, Not Nonconforming Uses

Any use which is approved by the Township Board after the effective date of this ordinance, as a Special Land Use in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. The Township board may approve as a Special Land Use a use existing prior to the effective date of this ordinance, subject to the limitations and conditions of this ordinance as though such existing use were a newly initiated use, in which case the use would thereafter have the status of a conforming use as provided for above.

Section 5.08 - Certificate of Occupancy for Nonconforming Structures and Uses

- A. In order to establish a record of lawfully existing nonconforming structures, and/or nonconforming uses of structures or land, the Building Official and/or Zoning Administrator shall upon application by the owner, within one (1) year of the time of passage of this ordinance, issue a Certificate of Occupancy for such lawfully existing nonconformance.
- B. If such Certificate of Occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner. Within six (6) months of the time of passage of this ordinance, the Building Official and/or Zoning Administrator shall conduct a survey of lawfully existing nonconforming structures and nonconforming uses of structures and/or land and shall notify the owners of record hereof of the above conditions of this subsection. It is not, however, the intent of this paragraph that nonconforming structures and nonconforming uses of structures and/or land not included in the above described survey and notification procedure would assume the status of conforming to the provisions of this ordinance by virtue of omission of such notification, it being recognized that for practical reasons certain nonconforming structures and nonconforming uses of structures and/or land could be missed in such survey and notification procedure described above.

ARTICLE VI
R-AG RESIDENTIAL-AGRICULTURAL DISTRICT

Section 6.01 - Intent

The regulations of this District are intended to provide for a rural residential agricultural-oriented environment for families typically with children. To this end, uses are basically limited to single family dwellings and generally accepted agricultural activities under the Michigan Right To Farm Act, P.A. 93 of 1981 which provides for circumstances under which a farm shall not be found to be a public or private nuisance. The low density nature of this District is meant to be compatible with surrounding agricultural activities.

Section 6.02 - Permitted Principal Uses

1. Single-family dwellings.
2. Generally recognized agricultural activities when conducted in accord with Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture.
3. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

Section 6.03 - Permitted Special Uses

1. Private garage.
2. Garden house, tool house, playhouse, or greenhouse, none used for commercial purposes.
3. Swimming pool in accordance with Article XVIII, Section 18.07.
4. Automobile parking for the domestic use of the occupants of the dwelling.
5. Any use customarily incidental to the permitted principal use.
6. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

Section 6.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.

5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.
6. Cemeteries.
7. Home Occupations in accordance with Article XVIII, Section 18.08.
8. Experimental, new technologies and related agricultural management practices pursuant to Article XIV, Section 14.04, paragraph 9.

Section 6.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE VII
R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 7.01 - Intent

The regulations are intended to encourage a suitable environment for families typically with children. For this purpose, uses are basically limited to single-family dwellings, together with certain other uses, such as schools, parks, and playgrounds, which provide a neighborhood environment. In keeping with the intent, development is regulated to a moderate density. Commercial and other uses, tending to be incompatible with the intent are prohibited.

Section 7.02 - Permitted Principal Uses

1. Single-family dwellings.
2. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12

Section 7.03 - Permitted Accessory Uses

1. Private garage.
2. Garden house, tool house, playhouse, or greenhouse, none used for commercial purposes.
3. Swimming pool in accordance with Article XVIII, Section 18.07.
4. Automobile parking for domestic use of the dwelling unit.
5. Any use customarily incidental to the permitted principal use.
6. Article VII, R-1 Single Family Residential District, Section 7.03 – Permitted Accessory Uses. The addition of “The use of storage containers, semi-trailers, former house trailers, or previously used manufactured homes as accessory buildings or temporary storage units is permitted for periods not to exceed sixty (60) days, unless otherwise approved in writing by the Zoning Administrator for no greater than one 60-day extension” will be considered.

Section 7.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.
5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.

6. Cemeteries.
7. Home Occupations in accordance with Article XVIII, Section 18.08.
8. State licensed residential facility providing supervision or care, or both, to 10 (ten) or less persons.

Section 7.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE VIII
RMH - RESIDENTIAL MOBILE HOME PARK DISTRICT

Section 8.01 - Intent

To make provisions for mobile homes on subdivided lots in mobile home subdivisions and in state-licensed mobile home parks in an appropriate safe, sanitary, and attractive manner. The regulations of this district are intended to require adequate space and facilities for healthful living conditions for occupants of such mobile home parks.

Section 8.02 - Principal Permitted Uses

1. Residential mobile homes located within a mobile home subdivision which has been expressly established for the sole purpose of selling lots on which mobile homes are to be used and occupied for living purposes.
2. Residential mobile homes located in state licensed mobile home parks.
3. Residential mobile home condominiums established in compliance with P.A. 59 of 1978, the Condominium Act and P.A. 96 of 1987, the Mobile Home Commission Act.

All mobile homes located within Sodus Township for permanent occupancy shall be situated on a foundation and anchored in compliance with R125.1605-Rule 605, R125.1606-Rule 606, R125.1607-Rule 607 and R125.1608-Rule 608 of the Michigan Administrative Code. Mobile home subdivisions and parks shall be limited to the use and occupancy of mobile homes and shall be used for no other purpose. Mobile home subdivisions shall be established only after the owner(s) of the land to be platted for such use has complied fully with all applicable requirements of the Michigan Subdivision Control Act of 1967, as amended and all applicable provisions of Sodus Township's codes and ordinances.

Section 8.03 - Permitted Accessory Uses

Permanent patios, porches, carports, and expandable living units may be attached to a mobile home provided such attachments are prefabricated by a mobile home manufacturer or other supplier for the express purpose for which they are intended, or are designed by the owner or architect to be compatible in design with the mobile home to which they are to be attached and so finished in appearance as to blend in with the mobile home to which they are to be attached so as to present a neat, orderly, and attractive appearance when completed. Any such attachments shall be first approved by the Building Official and/or Zoning Administrator who shall issue a permit therefore. Separate garages and accessory buildings such as tool and storage sheds may be constructed on the lot or mobile home site within a park on which the mobile home is located provided a building permit is first secured and all applicable ordinances are observed in the construction thereof. All mobile homes shall be equipped with skirting of a material, design, and finish which is compatible with the mobile home and the aesthetic appeal of the mobile home subdivision or mobile home park. All skirting shall be constructed or installed in compliance with R125.1604-Rule 604 of the Michigan Administrative Code.

Section 8.04 - Standards of Design for Mobile Home Parks

Mobile home parks shall be established in full compliance with all applicable requirements of the State Mobile Home Commission Act, Act 96, P.A. 1987, as amended.

1. Unit Construction

Mobile home parks shall be utilized for mobile home dwellings constructed in conformance with the standards of either the Housing and Urban Development Code of 1976 or the American National Standards Institute (A.N.S.I.) Code and customary accessory buildings subject to the requirements as established and regulated by Act 96 of the Public Acts of 1987, as amended, and in addition, satisfy the following minimum requirements.

2. Utilities

All mobile home sites shall be connected to public sanitary sewer and water if such systems are available and accessible as defined by the Michigan Public Health Code, Section 14.15 (12751) or

to a state-approved system. Electrical and telephone distribution lines shall be placed underground in conformance with R125.1932-Rule 932, R125.1933-Rule 933, and R125.1940-Rule 940.

3. **Internal Roads**

All roads in every mobile home park shall be hard surfaced in compliance with the standards of the American Association of State Highway and Transportation Officials, 1974 Edition. All roads shall be provided with adequate storm drainage (Michigan Department of Public Health Rule 41).

All such roads shall meet the following standards:

- 1) Two-way streets - minimum width of twenty-one (21) feet without parallel parking; thirty-one (31) feet with parallel parking permitted on one side; forty-one (41) feet with parallel parking permitted along both sides of the street.
- 2) One-way streets - minimum width of thirteen (13) feet without parallel parking; twenty-three (23) feet with parallel parking permitted on one side; thirty-three (33) feet with parallel parking permitted along both sides of the street.

4. **Land Area**

A mobile home park shall be constructed on a tract of land of no less than ten (10) acres.

5. **Mobile Home Site Size**

The mobile home park shall be developed with sites having a minimum of 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated and maintained as open space. This open space shall be in addition to that required under R125.1941-Rule 941, R125.1944-Rule 944, and R125.1946-Rule 946, of the Michigan Administrative Code.

6. **Setback**

No mobile home, permanent park building or other structure shall be located closer than fifty (50) feet to the mobile home park boundary if that boundary abuts a public road right-of-way that is not an internal park road.

Setback distances for mobile home sites shall be provided as required by R125.1941-Rule 941 of the Michigan Administrative Code.

7. **Off-Street Parking**

Parking shall be provided in conformance with R125.1925-Rule 925 of the Michigan Administrative Code. No unlicensed motor vehicle of any type shall be parked within this district at any time except that they may be stored within a covered building.

8. **Screening**

All mobile home parks shall provide landscaping which meets the following standards:

- 1) If the mobile home park abuts an existing residential development, the park shall be required to provide screening which extends along that portion of the park boundary which abuts the residential development.
- 2) If the mobile home park abuts a non-residential development, the park does not need to provide landscaped screening.
- 3) In all cases, a mobile home park shall provide landscaped screening along that portion of the park boundary which abuts a public road right-of-way.

4) The landscaping shall consist of evergreen trees or shrubs of a minimum of three (3) feet in height at the time of planting which are spaced so that they will provide a continuous screen at maturity.

5) At road intersections the landscaped buffer strip shall be positioned to avoid visibility hazards.

6) Where the landscaped screening will be located under or immediately adjacent to power, telephone, and similar above-ground facilities - species whose mature height will not interfere with the facility shall be used.

9. **Variances**

A variance to waive or alter the requirements of the landscape buffer strip may be granted if existing site characteristics or circumstances exist which would make it unreasonable for the park owner or developer to construct the landscape buffer strip in accordance with the above standards.

Existing site characteristics or circumstances would include but would not be limited to the following situations:

- 1) The proposed park is adjacent to an existing mobile home park.
- 2) The proposed park is adjacent to a use which currently has an environmental buffer strip.
- 3) The proposed park has natural vegetative growth which would adequately serve as a buffer.

10. **Commercial Sales**

In-park sales of mobile homes may be conducted from a model manufactured home used as a service building or sales facility. Mobile homes may also be located on lots and sold therefore as a convenience for the mobile home park, if the park owner/operator is a licensed mobile home dealer, but not with the intent or purpose of using the park for regular commercial sales of mobile homes. Tenants are permitted to sell their homes on-site in conformance with Section 28a of P.A. 96 of 1987. Commercial sales of convenience items or services to accommodate only those persons residing within the park shall be permitted provided such sales or services are located within a service building. No advertising signs relating to such sales or service shall be permitted.

11. **Signs**

In mobile home parks signs are permitted which meet the following standards:

- 1) No sign shall project into or be placed within the right-of-way of any street.
- 2) There shall be no flashing, or intermittent illumination on any sign, nor interference with clear driver vision along any highway, street, or road or at any intersection of two (2) or more streets. There shall be no moving signs or sign components other than minor elements of clocks or thermometers. All illuminated signs shall be placed as to prevent the rays of illumination therefore from being cast upon neighboring residences within a residential district.
- 3) The color, saturation, and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
- 4) All signs are subject to the height regulations of principal buildings for this district.
- 5) On-site signs are permitted for the following uses only:

- a) For home occupations one (1) sign is allowed not exceeding two (2) square feet in area and non-illuminated. Said sign may be mounted flat against the wall of the principal building or on a free-standing post which shall be located outside of any existing public road right-of-way.
- b) One bulletin or announcement board not exceeding thirty-two (32) square feet in area.
- c) "For Sale" or "For Rent" signs, not to exceed six (6) square feet in area, advertising only the premises on which erected.
- d) In subdivision developments, one (1) subdivision sign advertising the sale of dwellings having an area of not more than three hundred (300) square feet and having an overall height of not more than twelve (12) feet above the ground.
- e) One (1) trespassing, safety, or caution sign not over two (2) square feet in area shall be permitted for each two hundred (200) lineal feet of perimeter lot line.
- f) For signs on parking lots, one (1) sign shall be permitted at each point of ingress and egress to a parking lot in order to indicate the uses being served by the parking lot, the operator, parking rates, and directions of movement. Each such sign shall not exceed fifteen (15) square feet in area, shall not extend more than ten (10) feet in height above grade, and shall be located entirely on the parking lot.

12. **Height**

Maximum building height in this district is limited to one story except service buildings which may be two (2) stories.

Section 8.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE IX
R-3 RESIDENTIAL MULTI FAMILY DISTRICT

Section 9.01 - Intent

The purpose of the district is to contribute to the diversification and variety of the community's housing stock at locations suitable for a residential environment.

Section 9.02 - Permitted Principal Uses

1. Single-family dwellings
2. Two-Family dwelling.
3. Multi-Family dwelling.
4. Single-family detached or Two-Family attached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when fifty (50) percent or more of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

Section 9.03 - Permitted Accessory Uses

1. All uses allowable in the R-1 Single Family Residential District.
2. Community or private garages serving the principal building.
3. Private swimming pool designed and operated only for occupants of principal buildings and their personal guests in accordance with Article XVIII, Section 18.07.
4. Maintenance and management building associated with multi-family dwellings.

Section 9.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.
5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.
6. Cemeteries.
7. Home occupations in accordance with Article XVIII, Section 18.08.
8. Nursing and convalescent homes.

Section 9.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE X C COMMERCIAL DISTRICT

Section 10.01 - Intent

The Commercial district is established to provide suitable locations for a wide range of shopping, business, and service among such necessary regulations, being the exclusion of certain uses and activities which typically disrupt the functioning of commercial areas, and which function better outside such areas.

Section 10.02 - Permitted Principal Uses

The following uses are permitted, provided they are operated entirely within a building, except for off-street parking and loading facilities.

1. Mercantile establishments for the sale and service of goods at retail or wholesale.
2. Professional service establishments, such as offices of doctors, dentists, accountants, brokers, realtors, engineers, and architects.
3. Funeral homes, clinics, medical centers, convalescent homes.
4. Personal service establishments, such as barber and beauty shops, shoe repair shops, tailors, and laundry and dry cleaning shops.
5. Restaurants, delicatessens, bakeries, and other dispensaries of food at retail.
6. Banks, savings and loan associations, and similar financial institutions or offices.
7. Houses of worship, schools, post office, community centers, museums and similar public, semi-public, and institutional uses.
8. Hotels, motels, lodging houses, boarding houses, tourist homes.
9. Traditional Planned Unit Developments on a parcel land having a minimum of at least ten (10) acres of land area provided such projects meet the purposes of this Article. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

Section 10.03 - Permitted Accessory Uses

1. Any use customarily incidental to the permitted principal use.
2. Off-Street parking for private passenger vehicles and loading facilities in accordance with Article XX.

Section 10.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

The following uses may be allowed by Township Board Special Use Permit granted by the procedures provided for in this Section and in Article XXIII of this ordinance.

1. Residential dwellings.
2. Outdoor sales permitted for a specified duration.
3. Outdoor recreation facilities, such as miniature golf and arenas subject, to such operating and special regulations as may be imposed in the public interest.
4. Public parking garage or parking lot for paid parking and driveways.

5. Used car lots, trailer sales, and rental lots.
6. Automobile service garages, filling stations, and automobile laundries.
7. Theaters, night clubs, bowling alleys, and similar places of entertainment or recreation.
8. Circus, fair, carnival, outdoor displays, bazaars, or similar use, where permits for such use may be granted for periods not to exceed eight (8) days consecutively and may be renewable for not more than eight (8) days, and provided such use and occupancy:
 - a. is temporary and seasonal only.
 - b. is not detrimental to adjacent surrounding property.
 - c. will not create undue traffic hazard and congestion.
9. Electric transformer stations and substations, water and sewerage pumping stations. In permitting such use(s), the Township Board may vary the area, height, bulk and placement regulations as reasonably necessary for the public convenience and service, and reasonably compatible with the intent and character of the district.
10. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

Section 10.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE XI
M-1 INDUSTRIAL DISTRICT

Section 11.01 - Intent

To encourage and facilitate the development of industrial enterprises in a setting conducive to public health, economic stability and growth; protection from blight, deterioration, and non-industrial encroachment; and efficient traffic movement including employee and truck traffic. The area, weight, bulk, and placement regulations reflect the intent of these districts. Land conducive to the intent of this district is limited in availability and is therefore primarily intended for industrial use in the interest of the community's tax base and its economic growth and development.

Section 11.02 - Permitted Principal Uses

1. Same as principal permitted uses allows in the C Commercial District.
2. Storage of materials or equipment, excluding waste or junk, enclosed within a building or a substantial visually screened fence not less than six (6) feet in height. Storage of bulk oil, gasoline, or chemicals provided such facilities are constructed in conformity with regulations of the State Fire Marshall, and further provided that above ground storage shall be entirely enclosed within a building or substantial visually screened fence not less than six (6) feet in height, and shall be located at least five hundred (500) feet from any Residential district.
3. Where any Industrial District abuts a Residential District along a common lot or property line, no building, parking, storage, or industrial activity shall be located within fifty (50) feet thereto, in accordance with Article XVIII, Section 18.10.
4. Generally recognized industrial, warehousing, storage, manufacturing, or fabrication uses subject to the above limitations excluding those Uses Requiring Township Board Special Land Use Permit listed under the M-2, Industrial District, and similar uses, being prohibited in this district.
5. Public parking garage or parking lot. Upon application, the Township Board may vary the area, height, bulk and placement regulations for such uses as reasonably necessary for the public convenience and service, and reasonably compatible with the intent and character of the district.

Section 11.03 - Permitted Accessory Uses

1. Any use customarily incidental to the permitted principal use.
2. Enclosed storage for goods processed on the premises.
3. Living quarters of a watchman or caretaker employed on the premises.

Section 11.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. Same as C Commercial District, except residential dwellings.
2. The following use may only be permitted upon conclusive demonstration through specific plans that the proposed use shall not be obnoxious, hazardous, or detrimental to the public health, safety, and welfare:
 - a. **Rock Crushing**
Rock crushing is permitted upon issuance of a special land use permit when such operation meets the following requirements:
 - 1) If the operation is part of a road construction company's recycling for their own use or projects.

- 2) Rock crushing shall not be used for custom crushing and shall be confined only for the owner's own projects.
- 3) Crushing can be done on property twice per year for a duration of one month each time, and only considered between October 1st and April 15th and only during normal business hours.
3. Public utility electric power generating facilities.
4. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

Section 11.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE XII
M-2 INDUSTRIAL PARK DISTRICT

Section 12.01 - Intent

The Intent of this district is the same as M-1 District. Subject to Special Land Use Permit by the Township Board, heavier types of industries may be permitted in these Districts which are located and intended to be located at substantial distances from residential and more built-up areas.

Section 12.02 - Permitted Principal Uses

1. Same as M-1 District principal permitted uses.

Section 12.03 - Permitted Accessory Uses

1. Same as M-1 District permitted accessory uses.

Section 12.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. Same as C, Commercial District, except residential dwellings.
2. The following uses may only be permitted upon conclusive demonstration through specific plans that the proposed use shall not be obnoxious, hazardous, or detrimental to the public health, safety, and welfare; be located no closer than five hundred (500) feet to a residential district; and include but are not limited to: junk, scrap paper or rag baling or handling; poultry killing, dressing or live storage; slaughterhouse; ammonia bleaching powder or chlorine manufacture; asphalt manufacture or refining; boiler works, forge works, aluminum, brass, copper, iron or steel foundry employing five (5) or more workers; brick, tile or terra cotta manufacture; celluloid manufacture; disinfectant or insecticide manufacture; distillation of bones, coal, tar, or wood; dye manufacture; electroplating; fat rendering; fertilizer manufacture; glue, gelatin, or size manufacture; lime, cement or plaster of paris manufacture; molten bath plating, oil cloth or linoleum manufacture; plastic manufacture or article therefore; raw hides or skins or the storage, curing or tanning thereof, rock crushing; rolling mills; rubber manufacture; slaughtering of animals or fowl; smelting of iron; soap manufacture; stock-yards; sulfuric, nitric or hydrochloric acid manufacture; tallow, grease, or lard manufacture or refining; tar waterproofing manufacture; yeast manufacture; food processing employing more than ten (10) people; concrete ready-mix plants; similar uses.
3. Public regulated utility electric power generating facilities.
4. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

Section 12.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density, permitted and minimum yard setback requirements.

ARTICLE XIII
MA INDUSTRIAL AGRICULTURAL DISTRICT

Section 13.01 - Intent

The purpose of this district is to provide convenient locations for processing, shipping, receiving and warehousing of agricultural products, and repair and sales of agricultural implements, in order to meet the needs of those engaged in agricultural pursuits and to enhance, in an orderly manner, the agricultural interests of the Township.

Section 13.02 - Permitted Principal Uses

1. Same as the AG District permitted principal uses, except residential dwellings.
2. Fruit and vegetable processing facilities; shipping and receiving stations for fruit and vegetables, raw and processed; freezer; cold storage and general warehousing of fruit and vegetables, raw and processed.

Section 13.03 - Permitted Accessory Uses

1. Roadside stands (no more than one) for sale of agricultural products.
2. Farm Labor Housing - Any building or structure for the use or occupancy by seasonal farm labor as regulated by P. A. 368 of 1978, the Public Health Code, as amended, Part 124, Agricultural Labor Camps. All buildings maintained for farm families shall be occupied by them and their families only while engaged in work on farms.
3. All accessory buildings housing livestock shall be at least fifty (50) feet from any property line of the parcel and comply with Michigan Department of Agriculture adopted Generally Accepted Agricultural Management Practices (GAAMPS).
4. All vats, tanks and other similar structures used in processing fruits and vegetables shall be 100 feet from any property line of the parcel.
5. All vats, tanks and other similar structures used in processing fruits and vegetables located within 1,000 feet of any residential dwelling shall be appropriately screened.

Section 13.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. Stables of horses for hire, riding academies, private parks, gun clubs, golf courses, and golf driving ranges, cemeteries, raising of fur bearing animals, kennels, boat liveries and similar uses.
2. Office of a veterinarian, animal clinic, and similar uses.
3. Airplane fields and appurtenances, in compliance with requirements of the Michigan Department of Transportation, Aeronautics Division.
4. Schools.
5. Agricultural implement repair and sales.
6. Grain elevators.
7. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.
8. Home occupations in accordance with Article XVIII, Section 18.03.

9. Experimental, new technologies and related agricultural management practices pursuant to Article XIV, Section 14.04, paragraph 9.

Section 13.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE XIV AG AGRICULTURAL DISTRICT

Section 14.01 - Intent

To conserve and enhance the low density and agricultural use of substantial portions of the municipality that does now and, for a substantial period of time, should have such character. By conserving such character, the municipality and other public agencies will realize economies in public expenditures by minimizing scattered demand for urban types and levels of services, utilities, and facilities in otherwise predominantly rural areas.

The intent of this district is to support the use of land in this district for agricultural production. Support of continued agricultural production includes permanent and temporary preservation of individual parcels of land through voluntary conservation easements, use of zoning techniques that allow for the permanent preservation of land for agricultural purposes and application of experimental and/or new technologies that improve agricultural management processes or production capacities.

It is recognized that many experimental and new technologies over time will become generally accepted management practices as specific technologies mature and are found to meet the test of compatibility with the intent of this district. However, it is the intent of this district to allow on a case by case basis though issuance of a special use permit, experimental and new technologies when, in the opinion of the Planning Commission, such experimental and new technologies are compatible with current farming operations and occupants of adjoining properties.

Section 14.02 - Permitted Principal Uses

1. Generally recognized commercial farming, including livestock and poultry raising, dairying, and similar agricultural use of land and structures when conducted in accord with Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture, except a farm operated wholly or in part for the disposal of garbage, sewerage, rubbish, offal, and wastes from rendering plants. The parcel of land shall be ten (10) acres or more in land area for any use in this paragraph. No piles or accumulation of refuse or manure shall be closer than one hundred (100) feet from any property line of the parcel.
2. Single-family dwellings subject to the regulations of this district.
3. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

Section 14.03 - Permitted Accessory Uses

1. Same as R-1 Residential permitted accessory uses.
2. All accessory buildings housing livestock shall be at least fifty (50) feet from any property line of the parcel.
3. Roadside stands (no more than one) for sale of agricultural products.
4. Farm Labor Housing, specifically any building or structure for the use or occupancy by seasonal farm labor as regulated by P. A. 368 of 1978, the Public Health Code, as amended, Part 124, Agricultural Labor Camps. All buildings maintained for farm families shall be occupied by them and their families only while engaged in work on farms.

Section 14.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

1. Stables of horses for hire, riding academies, private parks, gun clubs, golf courses, and golf driving ranges, cemeteries, raising of fur bearing animals, kennels, boat liveryes and similar uses.
2. Office of a veterinarian, animal clinic, and similar uses.
3. Airplane fields and appurtenances in compliance with requirements of the Michigan Department of Transportation, Aeronautics Division.
4. Schools.
5. Home Occupations in accordance with Article XVIII, Section 18.08.
6. Agricultural implement repair and sales.
7. Mining Operations.
8. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.
9. Experimental and new technologies that improve agricultural management processes or production capacities, including but not limited to energy production using wind, biofuels and methane technologies, when the Planning Commission finds that such technology and/or management practice meets one or more of the following criteria:
 - a. Expands agricultural production capacity.
 - b. Reduces costs of operation.
 - c. Introduces new production capacity or diversification of products.
 - d. Lengthens the growing season.
 - e. Provides for or increases customer on-site sale of farm grown products.

The Planning Commission in its review and determination of the compatibility of any new technology or agricultural management practice shall consider the impact of the technology and/or management practice upon all adjoining properties and shall recommend applicable conditions to be included with the special use permit to mitigate adverse impacts upon adjoining properties as deemed necessary.

Section 14.05 - Area and Bulk Requirements

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

ARTICLE XV F FLOODPLAIN DISTRICT

Section 15.01 - Intent

All land lying within the floodplain district is subject to the regulations of this district for the purpose of protecting against flood damage or destruction to structures which might otherwise be constructed in flood hazard areas, and for the purpose of meeting the requirements of the State Floodway Encroachment Act, Act 167, P.A. 1968, as amended and rules promulgated thereto and the Federal Flood Insurance Act of 1968 and the Federal Flood Disaster Act of 1973. The floodplain district shall be defined by the most current 100-year flood hazard elevation as described within the Flood Insurance Administration flood insurance study for Sodus Township dated April 3, 1978, as may be updated from time to time. Any development within this district shall require a Special Land Use Permit and shall be subject to compliance with the Soils and Sedimentation Act, Act 347 of 1972, as amended, the rules and regulations promulgated thereto, and a permit issued by the Michigan Department of Environmental Quality.

Section 15.02 - Principal Permitted Uses

Notwithstanding any other provisions of this ordinance, no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used in a floodplain district except for one or more of the following uses, provided such activities shall not cause any encroachment of the floodway which will result in any rise in flood heights:

1. Gardening, horticulture, open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle trails and nature paths.
2. In the area above the 100-year floodplain, uses permitted by the zoning district otherwise established for the lot, subject to the regulations of such district; provided however, the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least one (1) foot above the elevation of designated 100-year floodplain.
3. In the area below the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located above; provided however, no building or structure shall be located below the 100-year floodplain. In Agricultural Districts, land below the 100-year floodplain may also be used for agricultural purposes otherwise permitted by the regulations of the Agricultural District, except for building structures.

Section 15.03 - Permitted Accessory Uses

Off-street parking is permitted as a use accessory to a principal use above the 100-year floodplain on the same lot. However, no building, structure or equipment other than boundary monuments is permitted below the 100-year floodplain as an accessory use.

Section 15.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)

A Special Land Use Permit shall be obtained for all uses, except those exempted pursuant to the provisions of this Article, before construction or development begins within any area of the floodplain district. In order to obtain a Special Land Use Permit, the following standards are required when development commences.

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- 1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
- 2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
- 3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- 4) any additions to the mobile home be similarly anchored.

2. **Construction Materials and Methods**

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. **Utilities**

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- c. On-site waste disposal systems shall be located, according to the requirements of Berrien County Health Department, a minimum of 4 feet above the 100-year flood level.

4. **Subdivision Proposals**

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5. **Residential Construction**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, at least one (1) foot above the 100-year flood elevation, and all other applicable flood proofing regulations of the H.U.D., Federal Insurance Administration, and the State of Michigan Construction Code, and rules and regulations promulgated thereto, shall be adhered to.

6. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this sub-section are satisfied. Such certification shall be provided to the Township Building Official.

7. Mobile Homes

- a. All mobile homes shall be anchored in accordance with subsection 1, above.
- b. For new mobile homes parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile homes parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities or pads before the repair, reconstruction or improvement has commenced; and for mobile homes not located in a mobile home park or mobile home subdivision, require that:
 - 1) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
 - 2) Adequate surface drainage and access for a hauler are provided; and
 - 3) In the instance of elevation on pilings, that:
 - lots are large enough to permit steps
 - piling foundations are placed in stable soil to no more than ten feet apart, and
 - reinforcement is provided for pilings more than six feet above ground level.

Section 15.05 - Delineation of Development Proposed and Floodway and Fringe Areas

The floodway and floodway fringe are defined as those areas so indicated on the Flood Boundary and Floodway Map within the most current H.U.D. Flood Insurance Study for the Township of Sodus, dated April 3, 1978 as from time to time may be updated. For issuance of a permit pursuant to this Article, the applicant must provide to the Township the map showing the floodway and fringe area plus any area contemplated for development.

1. Floodway Area Development Standards

Eligible development shall be constructed in conformance with the standards of Section 15.04. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a. Prohibit encroachments, including fill, new construction, substantial improvements, or other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any harmful increase in flood levels during the occurrence of the base flood discharge.

- b. Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision.
- c. No accessory structures normally incidental to a single-family residential use shall be constructed within the floodway area.

2. **Floodway Fringe Development Standards**

- a. Single-family residential uses permitted in districts contiguous to the floodway fringe where the floodway fringe has been filled pursuant to Section 15.04.3.b.1) above, may be allowed as a special land use within the Floodplain District provided the following conditions are met:
 - 1) A site plan, meeting the requirements of Article XXI shall be submitted,
 - 2) All requirements for a single-family residence as stipulated for the district contiguous to the site in question shall be met except that in no case shall the residence be located within 50 feet of the floodway,
 - 3) If public sewer and water are unavailable, requirements of the Berrien County Health Department requiring septic tanks and related drain fields be located a minimum of 4 feet above the 100-year flood level shall be followed,
 - 4) All other requirements and standards within Article XXIII shall be evaluated,
 - 5) Construction and occupancy of a single-family residence within the floodway fringe may still be subject to some flood risk. It shall be recognized that obstructions within the floodway could increase expected flood levels and inundate areas which would otherwise be free from flooding.

Section 15.06 - Recording of Special Land Use Permit Required

Before issuance of a building permit, the applicant shall file a copy of the recording of the Special Land Use Permit with the Berrien County Register of Deeds of which the Special Land Use Permit issued pursuant to the section shall contain the legal description of the subject property to inform future property owners of the conditions of said permits and of the remaining flood hazard.

ARTICLE XVI
PUD - PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

Section 16.01 – Purpose

The intent of Planned Unit Developments (PUD) is to permit greater flexibility and consequently more creative design of various types of development than are possible under conventional zoning regulations. It is the intention of this Article to allow flexible land use composition and design without sacrificing the basic principles of sound zoning practice. The basic zoning districts and their permitted uses as established in this Ordinance will form the land use base for designing a combination of uses permitted in each district in the form of clustering principal uses and activities at a higher density than would otherwise be possible under the respective district regulations on a preferred portion of a parcel while maintaining the overall density of development of the parcels consistent with the district regulations. Another option would be to combine the planning of land uses and activities from several districts as one project on the same clustering principle. This PUD district is also intended to minimize development impacts upon important environmental natural features, to provide for a more economical arrangement of on-site infrastructure by permitting principal uses to be more consolidated on one portion of a PUD site while retaining the overall density requirements, except as specifically authorized by the Township to encourage permanent land preservation.

It is a further intent of the PUD district to comply with the requirements of P.A. 177 of 2000 that requires qualified Michigan Townships to offer an “open space preservation” pattern of residential land development as a zoning and land development option in all zoning districts where the minimum lot size is two or fewer dwelling units per acre, or if the land is served by a public sewer system, three or fewer dwelling units per acre.

It is also a further intent of the PUD district to implement the provisions of P.A. 228 of 2003 that specifically allow a Michigan Township to approve a PUD that provides open space that is non contiguous with the rest of the property contained in the planned unit development. For the terms of this provision it is the intent of Sodus Township to provide the Planning Commission and Township Board authority to approve non contiguous disconnected property as a unified planned unit development where a portion of the total land area of the planned unit development is legally dedicated as permanent open space or farmland pursuant and when such dedication conforms with the open space and farmland preservation goals of the Sodus Township Master Land Use Plan and when such dedication is made in a form acceptable to the Planning Commission and Township Board. The goal of this PUD district provision is to implement the transfer of development rights from the portion of the PUD that will be dedicated as permanent open space or farmland preservation to the portion of the PUD scheduled for residential or other forms of development.

Under the provisions of this section there are established three types of Planned Unit Development:

1. PUD - Traditional (allowing the inclusion of other than residential uses)
2. PUD - Cluster Residential Development
3. PUD - Transfer of Development Rights

Section 16.02 - Permitted Principal and Accessory Uses

In the “PUD” Planned Unit Development District, the following provisions, regulations and restrictions shall apply:

A. Permitted Principal Uses

1. In the AG Agricultural, the R- AG Rural Residential Agricultural District, and the R-1 and R-3 Residential districts, a PUD - Cluster Residential Development or a PUD - Transfer of Development Rights Planned Unit Development can be designated on a parcel of land having a minimum of five (5) acres of land area.
2. In the in the C Commercial district, a parcel land having a minimum of five (5) acres of land area can be designated as a PUD - Traditional, provided such projects meet the purposes of this Article.

B. Permitted Accessory Uses

1. Accessory buildings and uses customarily incidental to the above named permitted and special uses.

C. Permitted Principal Special Uses

All special uses allowed by the applicable current zoning district shall be allowable within the PUD and approved pursuant to the approval process set forth in this Article.

Section 16.03 - General Provisions

- A. Continuing Applicability of Information on Approved PUD Site Plans:** The location of all uses and buildings, all uses and mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on or as part of a site plan which is approved by the Township, shall have the full force and permanence of the Zoning Ordinance as though such site plan and supporting information were specifically set forth as requirements in the Zoning Ordinance. Such information shall be the continuing obligation of any subsequent interests in a "PUD" district or parts thereof and shall not be changed or altered except as approved through amendment or revision procedures as set forth in this Article. The approved site plan(s) and any conditions attached thereto shall control all subsequent planning or development. A parcel of land that has been approved as a "PUD" district shall not thereafter be developed or used except in accordance with the approved site plan and plats approved by the Township.
- B. Commencement of Construction:** No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued until the requirements of this Article have been met, and approved as to conformance by the Township.
- C. Applicability of Performance Bond or Security:** A suitable performance bond or other form of security may be required for all public and common site improvements and developments and, if phased, all phased developments on a per phase basis. Cost estimates to be used in setting bond amounts shall be based upon the findings regarding estimated cost as reported by the Township Engineer, Public Agency, or PUD Engineer.

Section 16.04 - Pre-Application Conference - Disclosure of PUD Type - Submission of Application and Site Plan

- A.** An applicant for a PUD District may request a pre-application conference with the Zoning Administrator prior to filing an application for developing a PUD District. The request shall be made to the Zoning Administrator who shall set a date for the conference. The Zoning Administrator shall invite other officials who might have an interest in the proposed development, or who might assist the Township in the review process.
- B.** The purpose of the conference shall be to inform the Township and other officials of the type of PUD and concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the Township and other agencies. The applicant is encouraged to present schematic plans, site data, and other information that will explain the proposed development.
- C.** Statements and presentations made in the conference shall not be legally binding commitments.
- D.** Upon completion of the pre-Application conference, the application and required site plan shall be filed by the applicant upon a date agreed by the applicant and Zoning Administrator at the pre-Application conference, one that provides adequate time for the Zoning Administrator to complete a compliance review, prepare a written report for the Planning Commission and sufficient time to schedule the Planning Commission meeting.

Section 16.05 - Site Plan Requirements

A site plan shall be submitted for approval for each phase of development. Site plans shall be submitted and reviewed in accordance with the provisions of Article XXI - Site Plan Review Procedures.

The Planning Commission may require the applicant to provide housing and commercial market analyses; traffic studies; facility, utility and service studies; and other information necessary for the Commission to properly and adequately analyze a "PUD" District as the basis for decision making.

To that end, an impact assessment shall be prepared by the applicant and submitted when required by the Planning Commission concurrently with the site plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts, i.e., additional traffic likely to be generated per 24-hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated, and environmental impacts (i.e., soils to be found on the site, site topography, natural features of note that are located on the site, and how each would be impacted by the proposed development).

Section 16.06 - Application and Review Procedure

- A. An application for a "PUD" district shall be made by all of the owner(s) of record of the subject parcel. The applicant shall provide evidence of full ownership of all land in a "PUD" or execution of a binding or conditional sales agreement,
- B. The application shall be filed with the office of the Zoning Administrator, who will check it for compliance with the terms and conditions of this Zoning Ordinance. Upon determination that the application is in full compliance shall thereafter transmit the application and the site plan to the Township Planning Commission for final consideration and approval or denial. It is recommended that the applicant discuss the submission date with the Zoning Administrator to ensure sufficient time for the Zoning Administrator to complete the review prior to the Planning Commission meeting of which the applicant desires the matter to be considered.
- C. The Township Planning Commission shall hold a public hearing on the application and site plan, in most circumstances the hearing will be held within thirty-one (31) days of the filing date or at the next regular Township Planning Commission meeting if the date is less than the thirty-one day period. The public hearing shall follow the same procedure as that required in Article XXVII, Sections 27.03 and 27.04.
- D. At the public hearing the applicant shall present evidence regarding adherence to all pertinent standards and requirements. To this end evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models and other materials, and/or in the form of testimony by experts who can clearly state the full nature and extent of the proposal. Materials shall be submitted in a sufficient number of copies for review by each member of the Planning Commission and other Township officials. Materials submitted shall include the required site plan and any supplementary sources of information necessary to satisfy the requirements detailed in Section 16.03.
- E. The Planning Commission shall undertake a study of the application and site plan and shall submit a report of its recommendation to the Township Board within sixty (60) days of the filing date of the application. This report shall contain the Planning Commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process may include input from such agencies as the County Health Department, Road Commission and Drain Commissioner among other public agencies having a public interest in the PUD project development.
- F. The Township Board shall review the Planning Commission's reports thereon, and shall approve, approve with conditions, deny, or table for future consideration, the application and site plan. Upon approval of the application by the Township Board, the Township Clerk shall so designate the property on the "Official Township Zoning Ordinance Map" indicating the Type of PUD and date of approval. Changes in the application or site plan recommended by the Township Board shall be referred to the Township Planning

Commission for review and recommendation prior to the Township Board action thereon. The Township Board may attach conditions to its approval of a "PUD" proposal.

- G. If the application and site plan are approved by the Township Board, the approved application and plan shall be binding upon the applicant and owner(s) of record or their assigned agent(s) and upon their heirs, successors, and assigns, unless changes are mutually agreed to by the Township Board and applicant and owner(s) of record or the assigned agent(s) or their heirs, successors, and assigns.

Section 16.07 - Supplementary Development Standards and Regulations

The following requirements expand upon and are in addition to the requirements detailed in Article XXI - Site Plan Review Procedures:

A. Clustering Principals

The clustering of principal and accessory use structures shall be permitted provided that the overall density of dwelling units and lot coverage requirements are met, except as provided hereafter in sub paragraph B. A perimeter setback boundary located between the property line and any building or structure located in the PUD is required of all cluster developments. This setback distance shall comply with the front, side or rear setback requirements of the district in which the property is located.

B. Incentive Density

An applicant may request and the Planning Commission may recommend to the Township Board the approval of an increase in density within a PUD - Cluster Development or PUD - Open Space/Farmland Preservation, when in the determination of the Planning Commission, the increased density is an inducement necessary to assure the implementation of the development by the developer. The incentive density shall be the minimum amount determined necessary by the Planning Commission but no more than 50 percent of the total density that can legally be developed under the terms of this ordinance and any other development regulations imposed by others on that portion of the PUD to be designated for open space or farmland preservation.

C. District Location and Minimum Size

1. All development in this district shall be limited to tracts of land having an area of at least the minimum number of acres required for the respective types of "PUD" District.
2. All development in this district shall be restricted to sites having access to a hard-surfaced roadway and accepted and maintained by the County Road Commission or the Michigan Department of Transportation.

D. External and Internal Circulation and Access

1. Access points to a "PUD" development shall be located no less than three hundred thirty (330) feet apart when measured parallel to the adjoining roadway, to any other entryway, driveway or roadway.
2. Each lot or principal building shall have internal vehicular access from a public or private road.
3. As property is developed as a "PUD" Planned Unit Development District, a pathway system linking all principal residential, commercial and industrial units both with on-site amenities (e.g., recreation areas, shopping, places of employment) and (unless it is demonstrated to the Planning Commission that such a system would be inappropriate or unnecessary to the development) with adjoining parcels. The pathway system shall be designed so as to be appropriate to non-motorized transport modes (e.g., bicycling, walking). The pathway shall be no less than four (4) feet in width and it shall be constructed of hard-surface paved materials suited to walking and to non-motorized vehicular use.

4. Public and private roads shall be designed and constructed according to established standards for public roads as established by the County Road Commission except that such standards may be modified as provided Article XVI, Section 26.07.

E. Open Space (farmland) Regulations

1. Specific PUD types shall satisfy the following open space regulations:
 - a) **PUD - Traditional:** At least one (1) land or land/water area for active or passive recreation purposes or farmland, with the water areas constituting not more than fifty (50) percent of the total open space or farmland. The remaining land area shall be developed according to the approved site plan. This open space shall be for the use and enjoyment of the residents, occupants, and users of the PUD District, and shall be considered as an integral component of the overall Planned Unit Development. The developer shall provide financially for the perpetual and mandatory maintenance of the open space through the use of deed restrictions or a conservation easement which shall require the participation in said maintenance cost by each owner, lease holder, renter, resident, or occupant within the Planned Unit Development.
 - b) **PUD - Cluster Development and PUD - Transfer of Development Rights:** At least one land and/or water area of permanently dedicated open space or farm land legally dedicated in a manner acceptable to the Planning Commission and Township Board is required containing not less than fifty (50) percent of the land area that is legally permissible for development pursuant to this ordinance and any other applicable development regulations imposed by others.
2. Buildings, parking lots, drives and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space.
3. Open space areas shall be conveniently located and accessible in relation to the principal uses in the PUD.
4. Open space areas shall have at least minimum design standards, so that they can be usable and maintained for the functions intended.
5. The Township Board may require upon recommendation of the Planning Commission, that unique natural amenities located on the PUD site, such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, wetlands and unique agricultural production areas, shall be preserved as part of the open space system.

F. Landscaping and Parking

1. The parking and loading requirements set forth in Article XX - Off-Street Parking, Loading herein, shall apply except that the number of spaces required may be reduced if approved by the Township Board, upon recommendation of the Planning Commission, and included as part of the site plan submitted. Such reduction shall be based upon specific and reasonable findings.
2. A landscaped screening strip, no less than fifty (50) feet in width, shall be required when a free-standing physical structure containing a commercial, office or industrial use is located adjacent to a residential use. The screening strip shall be located between the two uses and shall be landscaped with trees, shrubs and ground cover, and may include fences, walls and berms.

G. Utilities

1. Each principal building shall be connected to public or common water and sanitary sewer systems or to on-site facilities approved by the County and/or State Health Officials and Township Board as a part of the Site Plan.

2. All PUD's shall be required to provide an adequate fire protection system as determined and approved by the Township Fire Department and Township Board after receiving the recommendation of the Fire Chief. In all cases where an on-site system is proposed, detailed drawings, plans and/or other background materials as well as written approval from the appropriate County or State agencies shall be presented as part of the Site Plan submitted.

Maintenance of any and all approved common on-site utility systems shall be ensured by use of deed restrictions which shall provide for financial participation in maintenance costs by each owner or occupant of the PUD served by the system.

3. Each site shall be provided with adequate surface and piped storm drainage. Open drainage courses and storm water retention ponds may be permitted.

4. Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the Site Plan and shall be screened from view.

5. A system of sidewalks connecting all principal buildings and a system of road lights shall be required of developments in the "PUD" district. Financial support for their maintenance shall be ensured through deed restrictions providing for each owner or occupant participation in maintenance costs.

H. Site Design, Layout and Density Criteria

1. All density requirements shall be completed on a total gross area basis, less water area, unless the water area with the exception that water areas of less than one-quarter ($\frac{1}{4}$) acre each may be included as part of the gross land area for computing density.

2. Residential areas may contain several different types of dwelling units if it can be demonstrated to the satisfaction of Township Officials that the proposed combination will not interfere with the reasonable arrangement of lots in an area to be platted.

3. All principal buildings and all accessory buildings or structures shall be located at least fifty (50) feet from any exterior public or private road right-of way line and property line of an area to be residentially developed or otherwise platted for other uses.

4. The outdoor storage of goods and materials shall be prohibited in the "PUD" District, except as expressly permitted by the terms of the current zoning district regulations.

I. Legal Mechanisms to Ensure Facility and Open Space Maintenance

1. Legal instruments setting forth the manner of financing permanent maintenance of common areas, utilities and facilities shall be submitted to the Township Attorney for review before the Township Board approves a final site plan.

2. Where an association is to be used to maintain common areas, utilities and facilities, the developer shall file a declaration of covenants and restrictions that will govern the association a part of the Site Plan application documents. The provisions shall include, but shall not be limited to, the following:

- a. The association shall be established as required by Michigan law.
- b. Membership in the association shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.
- c. Restrictions shall be permanent.
- d. The associations shall be made responsible for liability.
- e. Building or unit owners shall pay their pro rated share of the costs and this requirement shall be specified in the covenants. Assessments levied by the association shall become a lien on the individual properties.

J. Project Phasing

- 1. If the proposed development is to be constructed in phases, a narrative description of the phased process that describes all work to be done in each phase should be submitted to the Planning Commission when the Site Plan is submitted.
- 2. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, open spaces, and recreation facilities, but that which is needed to make each phase completely functional and have all of the necessary common elements planned, designed and built when needed.

Section 16.08 - Standards For Review

The Planning Commission shall determine and shall provide evidence in its report to the Township Board to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- A. The proposed development shall conform to the Township Master Plan for Land Use or conforms to a land use policy which, in the Planning Commission's opinion, is a logical and acceptable change or modification to the adopted Township Master Plan for Land Use.
- B. The proposed development shall conform to the intent and purpose of the Township Zoning Ordinance and its regulations and standards of a "PUD" District and other Township, County, State and Federal requirements.
- C. The proposed development shall be adequately served by public utilities, facilities, and services such as: highways, roads, sidewalks, road lights, police and fire protection, storm drainage facilities, water and sanitary sewer facilities, refuse disposal; or that the persons, organizations, or agencies responsible for the proposed development shall be able to properly provide or connect to such utilities, facilities, and services with a Township or other public agency approved service when not provided by a public agency.
- D. Common open space, other common properties and facilities, individual properties, and all other elements of a "PUD" which provide open space are so planned that they will achieve a unified plan for all of its elements in appropriate locations, which are suitably planned, designed, and related to each other, the site, and surrounding uses of land.
- E. The applicant shall have made provision to ensure that public and common utilities, facilities, and services shall be irrevocably committed through recorded deed restrictions for that purpose, including provisions for the financing of the construction, management, operation and maintenance of all public and common utilities, facilities, and services included in the approved Site Plan and supporting documentation.
- F. Traffic to, from, and within the PUD shall be safe and convenient to the occupants and users of the project and the surrounding area. In applying this standard the Planning Commission shall consider, among other

things, convenient routes for automotive and pedestrian traffic; relationship of the proposed project to main thoroughfares and road intersections; and the general character and intensity of the existing and potential land use development of the surrounding area.

- G. The mix of housing unit types and densities, and the mix of residential and non-residential uses shall be acceptable in terms of their interrelationships, convenience, privacy, compatibility, and similar common welfare measures.
- H. The Planning Commission shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed PUD, will not adversely affect adjacent and surrounding lands, uses, and/or activities.
- I. The proposed development shall create a minimum disturbance to natural features, land forms, and the environment generally.
- J. Roads shall be compatible with the topography, be properly spaced, and be located and aligned in accordance with the intended function of each road. The PUD shall have adequate access to public roads. The plans shall provide for logical extensions of public roads and shall provide suitable road connections to adjacent parcels, where applicable.
- K. Pedestrian circulation shall be provided within the PUD and shall interconnect all PUD use areas where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the PUD and to the edges of the "PUD" where applicable, for future connections between the PUD and the future development of adjacent properties.

Section 16.09 - Amendments to Site Plans

Preliminary and final site plans may be amended in accordance with the process detailed in Article XXI - Site Plan Review Procedures.

Section 16.10 - PUD Site Plans, Subdivision Plats and Condominium Subdivisions

The Township Board shall have the authority to deny or table an application for approval of a PUD Site Plan, Land Division (subdivision) Plat or Condominium Subdivision if, in its opinion and after a report thereon from the Planning Commission, such PUD Site Plan or Land Subdivision will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities, and schools, as determined from the Public Works Capital Improvements Program adopted by the Township.

Section 16.11 - Extension of Time Limits

Time limits set forth in Article XXI - Site Plan Review Procedures may be extended upon showing a good cause, and by written agreement between the applicant and the Planning Commission.

Section 16.12 - Performance Guarantees

Performance guarantees shall be provided in accordance with Article XVI, Section 16.03 and/or Article XXI, Section 21.16.

Section 16.13 - Violations

Violations shall be addressed in the manner provided in Article XXV- Administration & Enforcement, Section 25.06-25.10.

ARTICLE XVII
SCHEDULE OF ZONING DISTRICT REGULATIONS
Section 17.01 - Yard Setback, Building Height and Lot Size Requirements

Zoning District	Minimum Yard Set Back In Feet (1)			Maximum Building Height		Minimum Lot Size	
	Front Yard	Side Yard	Rear Yard	Feet	Stories	Area	Width in Feet (6)
R-AG - Agricultural Residential (4)	30	10	40	30	2½	2 Acres	200
R-1 - Single Family Residential	30	10	40	30	2½	12,000 Sq. Ft.	100
R-3 Multi Family Residential (Single Family Dwellings same as R-1)	25	10	40	30	2½	Per Dwelling Unit (2)	60
C Commercial (4) (7) (Single Family Dwellings as a special use, same as R-1)	25	10	20	40 (3)	2½	None	None
M-1 Industrial	25	10	30	40 (3)	2	None	None
M-2 Industrial	25	10	30	40 (3)	2	None	None
MA Industrial Agricultural	30	50	30	40 (3)	2½	10 Acres (5)	300 (5)
AG Agricultural	30	10	30	40 (3)	2½	10 Acres (5)	300 (5)

Notes:

- (1) See Article XVII, Section 18.02, Accessory Buildings and Section 18.06 Waterfront Setbacks.
- (2) 1BR or efficiency 2,000 sf per dwelling unit; 2BR 2,700 sf per dwelling unit; 3 BR 3,400 sf per dwelling unit; or a minimum lot size of 9,600 sq. ft., whichever is larger.
- (3) The height of a sign on a building shall not exceed fifty (50) percent of horizontal distance to the nearest residential district boundary.
- (4) See Article XVI, on Planned Unit Developments for group of dwellings.
- (5) The Zoning Board of Appeals may waive the minimum lot size to a lot size requirement no less than two (2) acres where a) there are unique circumstances related to the land that limit the agricultural use of the property, b) a minimum of fifty (50) percent of the land on the subject property will be permanently preserved for agricultural use in a form acceptable to the Township Planning Commission and Township Board, and c) the permanently preserved land complies with the overall land preservation plans and policies of the Township.
- (6) All lots, except in platted subdivisions (or site condominiums) and planned unit developments provided that they meet all requirements of this ordinance, shall have frontage on a street/road equal to the minimum width in feet as provided herein.
- (7) See Article XVIII, Section 18.10, Buffer Areas.

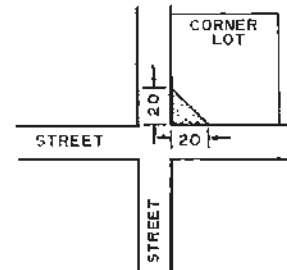
ARTICLE XVII - SCHEDULE OF ZONING DISTRICT REGULATIONS**Section 17.02 - Minimum Size of Dwelling Units**

Type of Buildings	Square Feet Floor Area First Story (See definition of floor area)	Square Feet Total Floor Area	Square Feet Additional Floor Area for Storage and/or Utility
Single Family Dwelling			
1 story in height	1,000	1,000	None
1½ story in height	900	1,000	None
2 stories in height	800	1,600	None
Two Family Dwellings per dwelling unit	None	900	100
Multi Family Dwellings			
per efficiency dwelling unit	None	300	100
per 1 bedroom (1 BR) dwelling unit	None	600	100
per other dwelling unit	None	728	200

ARTICLE XVIII SUPPLEMENTARY DISTRICT REGULATIONS

Section 18.01 - Visibility at Intersections

On any corner lot in any district no fence, accessory structure, plant, shrub or similar object over three (3) feet in height shall hereafter be placed, erected, planted or allowed to grow in the area bounded by the street lines of such corner lot and a line joining points along the street lines for a distance of twenty (20) feet from the point of the intersection.



Section 18.02 - Accessory Buildings

- A. In no case will it be permitted to erect a garage or other accessory building in any required front yard unless it is attached to and a part of the dwelling and in conformance with the setback requirements of Article XVII - Schedule of District Regulations. All garages and other accessory buildings attached to the dwelling shall be considered a part of the dwelling in determining yard requirements.
- B. A detached accessory building shall be located no closer than five (5) feet from any lot line.

Section 18.03 - Exceptions to Height Regulations

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Section 18.04 - Structures to Have Access

Every structure hereafter erected or moved shall have the required uninterrupted frontage on an approved public or private road, and all structures shall be so located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 18.05 - Temporary Dwelling Structures

No building, garage, cellar, basement or other structure which does not conform to the provisions of this ordinance relative to permanent dwellings shall be erected, altered or moved upon any premises and used for dwelling purposes except under the following applicable limitations:

- A. Temporary use of a building, garage, cellar, basement or other structure shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period which a permanent dwelling conforming to the provisions of this ordinance is in process of erection and completion, provided, however, such period shall not exceed 12 consecutive months beginning with the date of issuance of the permit.
- B. Use of any building, garage, basement or other structure for temporary occupancy shall not be adverse to the public health, safety, or welfare.
- C. The location of each such building, garage, cellar, basement or other structure shall conform to the regulations governing the yard requirements for dwellings, or similar conformable structures in the district in which it is situated.
- D. Recreational vehicles may be used to provide temporary housing of guests or visitors on a not for hire noncommercial basis by the owner of the premises where such vehicle is located. Such use for temporary housing shall not exceed (1) such vehicle at any one time and shall not continue for more than two consecutive weeks in any thirty-day period. Occupants of such recreational vehicles shall have unrestricted use of the sewage disposal and water supply facilities of the principal dwelling located on said premises. Prior to such use a permit therefore shall be obtained from the Township Clerk, which permit shall state the type of vehicle, license number, dates during which occupation is authorized and other pertinent information.
- E. Application for the erection, movement, alteration, and use of such building, garage, basement or other structure intended for temporary occupancy shall be made to the Building Official and/or Zoning

Administrator on an appropriate form signed by the applicant which shall indicate the applicant has read, understands and agrees to abide by all applicable provisions of this ordinance and that failure to abide by such applicable provisions constitutes a violation of this ordinance.

Section 18.06 - Water Front Setbacks

- A. The front yards of all water front lots shall be determined by the distance from the ordinary high water mark, if it has been established, or from the water's edge to the building or structure to be erected upon the lot. On all water front lots in improved areas, no building or structure, except a boat house, shall be constructed or erected with a water side setback less than the average setback of existing similar buildings or structures within 200 feet on each side of the property. Provided, however, in no event shall any building or structure be constructed or erected so as to obstruct the view of the occupants of existing dwellings measured at an angle of 45 degrees from the nearest water front corner of such existing dwellings facing the water front.
- B. In unimproved areas yard requirements for water front properties shall be the same as specified in Article XVII, but in no instance shall any building or structure, except a boat house, be constructed or erected within 20 feet of the water line. A boathouse may only be constructed within twenty (20) feet of the waterline if it can conform to the regulations imposed in Article XV, Floodplain District.

Section 18.07 - Swimming Pools

- A. It shall be unlawful for any person or persons to install, place or maintain a swimming pool having a depth of three (3) feet or greater upon any lot or parcel of land in Sodus Township without first securing a Certificate Of Approval from the Building Official and/or Zoning Administrator.

In granting such certificates, the Building Official and/or Zoning Administrator shall consider, among other things, the availability of water and adequate drainage. No certificates for such use shall be granted unless the plans provide for the construction of a suitable fence or enclosure around the pool of at least four (4) feet in height with a gate or gates that may be locked. The construction of the fence or enclosure shall be a prerequisite to the use of any such swimming pool. The purpose of this provision is to provide for the safety and protection of small children.

- B. The location of a swimming pool on any lot or parcel of land must comply with the minimum yard setback requirements of the respective district in which it is situated.
- C. After determination by the Building Official and/or Zoning Administrator that all applicable requirements of this ordinance and the township building code, including provisions regarding plans and permits, have been met, the Building Official and/or Zoning Administrator may issue the necessary permit for the construction, installation, enlargement or alteration of a swimming pool.

Section 18.08 - Home Occupations

- A. Home Occupations shall be allowed only in principal use single-family dwellings and only by Township Board Special Land Use Permit in conformance with Article XXIII, and the following regulations:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area and non-illuminated. Said sign may be mounted flat against the wall of the principal building or on a free-standing post which shall be located outside the existing road right-of-way.

4. No home occupation shall be conducted in any accessory building.
5. There shall be no sales of goods on the premises in connection with such home occupation.
6. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
8. Yard sales and garage sales are not considered to be home occupations and permitted without a special use permit provided they meet the following standards:
 - a. Sales last no longer than seven (7) days.
 - b. Sales are held no more than two (2) times in one calendar year.
 - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
 - d. No goods purchased for resale may be offered for sale.
 - e. No consignment goods may be offered for sale.
 - f. Directional signs may be placed on the street right-of-way.
 - g. All directional and advertising signs shall be free-standing and removed after completion of sale.
 - h. All directional and advertising signs placed on private property shall have the owner's permission.
 - i. No directional signs or advertising signs may be larger than two (2) feet by three (3) feet.

Section 18.09 - Erection of More Than One Principal Structure on a Lot

The construction of more than one (1) principal permitted use residential structure on a lot of record is prohibited except with a Planned Unit Development or pursuant to an approved Conditional Rezoning Agreement wherein the lot of record is temporarily rezoned to the R-3 Multiple-Family Residential Zoning District.

Section 18.10 - Buffer Areas

In a Commercial District or Industrial District, where it abuts a Residential District, a fifty (50) foot wide strip of natural vegetation shall be maintained as a greenbelt buffer area within which no parking or building shall be placed. This greenbelt is meant to separate land uses or activities which could be degraded by the other if not physically separated.

Section 18.11 - Disabled Motor Vehicles, Junk, Blighted Structures, etc.

All property in Sodus Township shall be maintained in compliance with the provisions of the Ordinance Number 3, the Township Disabled Motor Vehicles, Junk, Blighted Structures Ordinance

Section 18.12 - Private Roads

All private roads shall comply with the provision of Ordinance Number 23, the Township Private Road Ordinance.

Section 18.13 - Land Divisions

Any division of land in Sodus Township shall comply with the terms of this Ordinance and Ordinance Number 20, the Township Land Division Ordinance.

Section 18.14 - Dwelling Structures for Temporary Medical Hardship Accommodations

Notwithstanding any other provisions of this Ordinance, the Township Board may approve through the issuance of a Temporary Medical Hardship Special Land Use Permit pursuant to the provision of Article XXIII, the use of a mobile

home on the same lot as a permitted principal use single-family dwelling for occupancy of the principal use property owners upon a finding of a demonstrated medical hardship on the part of an occupant of the proposed mobile home or an occupant of the principal use single-family dwelling. An application for Temporary Medical Hardship Special Land Use Permit shall be filed with the Zoning Administrator who shall take such action to process the application pursuant to the provision of Article XXIII, Section 23.03 and shall, upon approval, remain valid for a period of one (1) year from the date of approval. The Township Board may, upon finding that the medical hardship conditions for which the permit has been issued remain, grant one or more additional one (1) year extensions. All such special land use permits shall provide that the recipient shall inform the Zoning Administrator, in writing, within thirty (30) days of the expiration of the medical hardship condition. Upon conclusion of the medical hardship need the mobile home must be removed within one hundred eighty (180) days of the expiration of the Temporary Medical Hardship Permit. Such mobile home shall meet all requirements of the RMH-Residential Mobile Home Park District as though located in a mobile home subdivision and on an individual lot.

The Temporary Medical Hardship must be a demonstrated medical hardship that renders one unable to do certain things they once could on their own, such as undertake off site travel unassisted, shopping, feeding, and clothing oneself or personal care assistance. The Township Board may require in this regard one or more medical certificates in support of the alleged medical hardship.

Section 18.15 - Household Pets and Animal Regulations

The keeping of household pets and other animals in any zoning district shall comply with the following regulations:

- A. The keeping of customary household pets such as cats, dogs, household fish and household birds is expressly permitted in any zoning district.
- B. In AG, Agriculture and R-AG, Residential Agricultural Districts, the incidental use of livestock normally found in an agriculture setting, such as pigs, goats, sheep, fowl, and poultry, is permitted as long as the property is maintained in accordance with the Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture and referenced in the Michigan Right-To-Farm Act.

The accumulation of refuse or manure shall not be closer than one hundred (100) feet from any property line of the parcel if not otherwise regulated by the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices.

- C. Horses, llamas, mules, goats, cattle, pigs, and sheep may be housed on a zoning lot in the R-AG, Residential Agricultural and AG, Agricultural Districts by the property owner for personal recreation, leisure time activities or hobby purposes, in accordance with the following standards:
 - 1. The zoning lot shall be not less than two (2) acres in area,
 - 2. The maximum number of animals on any zoning lot shall conform to the following schedule:
 - a) One (1) animal on a two (2) acre zoning lot
 - b) Two (2) animals on a three (3) acre zoning lot
 - c) Three (3) animals on a four (4) acre zoning lot
 - d) Four (4) animals on a five (5) acre zoning lot
 - e) One (1) additional animal per acre on a parcel larger than five (5) acres
 - 3. Any piles of refuse or manure shall be located at least one hundred (100) feet from any property line of the parcel of land so used.
 - 4. All accessory buildings housing these animals shall be located at least one hundred (100) feet from any property line of said parcel, and shall be located at least one hundred fifty (150) feet from any existing dwelling unit located on a separate parcel which is owned by persons other than the parcel

where such animals are kept, if not otherwise regulated by the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices.

5. On lots of one-half (1/2) acre, but less than one (1) acre: raising and keeping fowl, poultry, and/or rabbits and or other small animals for pets is allowed, not to exceed three (3) per lot. On lots of one (1) acre or larger, raising and keeping fowl, poultry, and/or rabbits and/or other small animals commonly raised for human consumption in numbers no greater than is required to satisfy the personal needs of the human occupiers of the premises is allowed.

ARTICLE XIX SIGN REGULATIONS

Section 19.01 - Purpose and Intent

This Article shall be known as the Sodns Township Sign Regulations. For the purposes of this Article, a sign is any device designed to primarily inform or attract the attention of persons not on the premises on which the sign is located.

These regulations are intended to:

1. Preserve public health, safety, and welfare of Township residents and visitors.
2. Minimize the adverse effects of signs on nearby public and private property.
3. Protect and enhance the scenic views and natural landscapes.
4. Protect and enhance economic viability by assuring aesthetic appeal for tourists, resorters, visitors, and residents by the use of aesthetically pleasing sign materials and colors.
5. Avoid obstacles, distractions, or traffic hazards, which impair a traveler's ability to see pedestrians, traffic signs, or vehicles. See Section Article XVIII, Section 18.01 "Visibility at Intersections.
6. Reduce the blighting influence of Signs.
7. Avoid adverse lighting or reflection to limit encumbrance of the night sky.
8. Require structurally safe signs.

Section 19.02 - Signs Permitted in Any District without a Permit

Subject to other applicable requirements and permits in this regulation, the following signs are permitted in any Zoning district without a permit:

Permanent Signs

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, name of occupants of the premises or other identification of the premises not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Legal notices; identification, informational or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
5. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall not exceed two square (2) feet in area.
6. Traffic control and information signs installed by the Berrien County Road Commission and the Michigan Department of Transportation shall be deemed essential services and exempt from sign regulations.

Temporary Signs

All temporary signs permitted pursuant to subsections 7 through 11 below, shall contain the name, address and telephone number of the individual responsible for the installation and removal of the sign. The Zoning Administrator is empowered to order the removal of any sign in violation of the terms of this ordinance through telephonic communication followed by a written notice sent via US Postal Service, effective date of notice which shall be the date of deposit with the US Postal Service. Any sign not removed within five (5) days of the telephonic communication shall be deemed a nuisance and subject to removal by the Zoning Administrator. The responsible party shall be liable for all costs for removal and storage of all signs removed by the Zoning Administrator pursuant to the requirements of the zoning ordinance fee schedule established by the Township Board.

7. Political and campaign election signs are expressly permitted provided such signs are installed on private property and no sooner than ninety (90) days before the date of the election and are removed no later than three (3) days following the date of the election.
8. Real estate signs and other signs, having no more than thirty-two (32) square feet of sign area, offering the property upon which the sign is located "for sale or lease," provided such signs are removed within five (5) days of the closing or leasing of the property.
9. Construction service signs are permitted to be installed on any property for which a Building Permit has been issued until the construction is completed but no longer than seven (7) days thereafter.
10. Temporary signs announcing school, church, fraternal, and other not-for-profit organization activities provided that such signs do not exceed thirty-two (32) square feet of sign area and are installed no more than thirty (30) days prior to the date of the specific event and are removed within three (3) days after the date of the specific event. Illuminated announcement signs are expressly permitted provided the illumination and any other form of lighting ceases at sunset
11. Private garage sale (off site or on site) provided that such signs do not exceed three (3) square feet of sign area, are installed on private property installed no more than seven (7) days prior to the date of the garage sale and are removed within one (1) day after the date of the garage sale.

Section 19.03 - Determination of Sign Surface Area

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

Section 19.04 - Regulation Governing all Permitted Signs

The following regulation shall govern all signs, except where the regulations provided by Sections 19.06 through 19.08 establish more stringent requirements in which case the latter shall apply.

1. No sign shall project into or be placed within the right-of-way of a street, road or highway except the traffic control and information signs.
2. There shall be no flashing or intermittent illumination on any sign, or interference with clear driver vision along any highway, street, road or at any intersection of two (2) or more streets, roads or highways, except as provided in Section 19.02 (10). There shall be no moving signs or sign components other than elements of clocks or thermometers. All illuminated signs shall be so placed as to prevent the rays and illumination from being cast upon neighboring residences within a residential district and shall be located not less than one hundred (100) feet from such residential district.

3. The color, saturation, and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
4. The placement, frequency, size, height, and design of signs shall not deteriorate the scenic environment or contribute to general traffic hazards.

Section 19.05 - Nonconforming Signs and Billboards

All signs and billboards erected or constructed after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance. Any sign or billboard erected or constructed prior to the adoption of this Ordinance and not conforming to the requirements of this Ordinance shall be deemed a nonconforming structure and shall be subject to the provisions of Article V

1. A sign, which is deemed to be nonconforming, may not be enlarged or altered in a way which increases its nonconformity.
2. Should a sign which is deemed to be nonconforming be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should a sign which is deemed to be nonconforming be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 19.06 - Signs in Residential Districts and the Residential Home Park District

On-site signs relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises, are permitted for the following uses only:

1. For Home Occupations there may be one (1) sign not to exceed two (2) square feet. Said sign may be mounted on the building or on a free standing post or posts not to exceed five (5) feet in height from top of sign as measured, level from the uniform finished grade which shall be placed in accordance with existing setback regulations.
2. One bulletin or announcement board not exceeding thirty-two (32) square feet in area, in RMH, Residential Mobile Home Park Districts only.
3. "For Sale" or "For Rent" signs, not to exceed six (6) square feet in area, advertising only the premises on which erected.
4. In subdivision or condominium developments, one (1) advertising sign having an area of not more than thirty two (32) square feet and having an overall height of not more than twelve (12) feet above the grade.
5. One (1) trespassing, safety or caution sign not over two (2) square feet in area shall be permitted for each two hundred (200) lineal feet of perimeter lot line.
6. A residential neighborhood (Single-Family Subdivision, Multiple-Family, Attached Housing Development, etc.) is permitted to have one Residential Neighborhood Identification Sign for each entrance street. Such signs shall not extend into any public right-of-way. The face of the sign shall not exceed thirty-two (32) square feet. The area of the structural supporting elements shall not exceed 50% of the area of the message portion of the Sign. The height of the Sign may not exceed six (6) feet above the uniform finished grade.
7. Non-Dwelling Use Signs: A Non-Dwelling Use in a residential area, such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have a total of two (2) signs,

wall or ground, or a combination thereof, neither of which shall exceed thirty-two (32) square feet in area” will be considered. The area of the structural elements supporting a Ground Sign shall not exceed fifty percent (50%) of the area of the message portion of the Sign. The height of a Ground Sign may not exceed six (6) feet above the uniform finished grade.

Section 19.07 - Signs on Parking Lots Located in Any District

One sign shall be permitted at each point of ingress and egress to a parking lot to indicate the operator, parking rates and directions of movement. Each such sign shall not exceed fifteen (15) square feet in area, shall not extend more than ten (10) feet in height above grade and shall be entirely located on the parking lot. Besides the signs indicated in the preceding sentence, only signs advertising the uses being served by the parking may be erected on a parking lot.

Section 19.08 - Signs in All Other Districts

Identification and advertising signs are permitted as follows:

1. Any sign permitted in any residential or residential-agriculture zoning district.
2. In AG, Agricultural District only, no more than two (2) onsite signs, neither of which shall exceed fifty six (56) square feet in area, with total construction to be no more than ten (10) feet in height as measured, level from the uniform finished grade, shall be permitted. Advertising signs in parking lots shall be included in the computed sign area.
3. In the C, Commercial and the M-1 and M-2 Industrial zoning districts, one (1) or more on-site signs, and the total of all such signs not exceeding a total area of one (1) square foot for each ten (10) square feet of wall surface area facing the front lot line. Advertising signs in parking lots shall be included in the computed sign area. No sign shall be greater than fifty six (56) square feet in area, with total construction to be no more that twelve (12) feet in height, as measured from the uniform finished grade level.

Section 19.09 - First Amendment Protection

The placement of directional signs, residential neighborhood signs, historical site signs, and flags is specifically authorized in these regulations. All other signs allowed under these regulations may contain any lawful message.

Section 19.10 - Fee for Removal of Signs In Violation of Regulations

The Township Board shall establish by resolution as part of the fee schedule for administration of this ordinance, fees and/or charges for the removal of any such sign in violation of the terms of these regulations reflecting actual cost and expenses incurred by the Township in the removal and disposal of such signs.

Section 19.11 - Sign Permit Application and Issuance By Zoning Administrator and Inspections

The Zoning Administrator and/or Building Inspector shall provide an application and sign permit and shall conduct such inspections as required for the enforcement of these regulations and the applicable portions of the Michigan Construction Code.

ARTICLE XX
OFF STREET PARKING AND LOADING REGULATIONS

Section 20.01 - Required Off-Street Parking In General

Off-Street Parking required in conjunction with all land and building uses shall be provided as herein prescribed:

1. The minimum number of off-street parking spaces shall be determined in accordance with the following table. For uses not specifically mentioned therein, off-street parking requirements shall be established by the Administrative Official from requirements for similar uses.
2. Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building, shall not be reduced to an amount less than would hereinafter be required for such building or use.
3. Two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the Township Board may grant a Special Land Use based on the peak hour demand.
4. Required off-street parking shall be for the use of occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the off-street parking lot, without crossing any major street.

Section 20.02 - Table of Required Off-Street Parking Spaces

USE	SPACES	PER UNIT OF MEASUREMENT (Rounded off to nearest unit)
Multiple residential	1	Bedroom
Other residential, including dwelling units in all other types of buildings	2	Dwelling Unit
Hospitals, homes for the aged, convalescent homes	2	Each bed
Private clubs	1	100 square feet usable floor area
Tourist homes, motels	1.2	Each rooming dwelling unit
Theaters, auditoriums	1	4 seats
Dance halls and assembly halls without fixed seats	1	100 square feet usable floor area
Houses of worship, mortuaries	1	4 seats; or 28 square feet usable floor area of auditorium, whichever is greater

USE	SPACES	PER UNIT OF MEASUREMENT (Rounded off to nearest unit)
Elementary, Junior High Schools	1	Per teacher, employee, administrator; or 28 square feet of usable floor area of largest auditorium or other public assembly room, whichever is greater
High Schools	1	Per teacher, employee, and administrator; plus 1 space per 10 students; or 28 square feet of usable floor area of largest auditorium or other public assembly room, whichever is greater
Banks, business offices	1	200 square feet usable floor area, plus 1 parking space for each employee
Office of architects, attorneys, accountants, real estate offices, insurance offices	1	500 square feet usable floor area, plus 1 parking space for each employee
Professional offices of dentists and physicians	4 3 2 1	First dentist or physician Second dentist or physician Third dentist or physician Each additional dentist or physician
Stadiums and sports arenas	1	4 seats; or 12 feet of benches
Bowling alleys	5	Alley
Non-residential swimming pools	1	30 square feet of water area
Establishments for sale and consumption of beverages, food, or refreshment on the premises	1	100 square feet usable floor area
Hotel, rooming house	1	Each rooming unit
Beauty parlor or barber shop	2	Barber or beauty shop chair
Retail stores, except as otherwise specified herein	1	150 square feet usable floor area
Furniture & appliance stores; household equipment repair shops; showroom of a plumber, decorator, electrical or similar trade; clothing & shoe repair; cleaners & laundry; motor vehicle sales room	1	500 square feet usable floor area exclusive of usable floor area occupied in processing or manufacturing, for which requirements see industrial establishments below.
Industrial establishments, including manufacturing, research, and testing laboratories; creameries; bottling works; printing, plumbing or electrical workshops; telephone exchange buildings	1	Employee, computed on the basis of greatest number of persons employed at any one period during the day or night

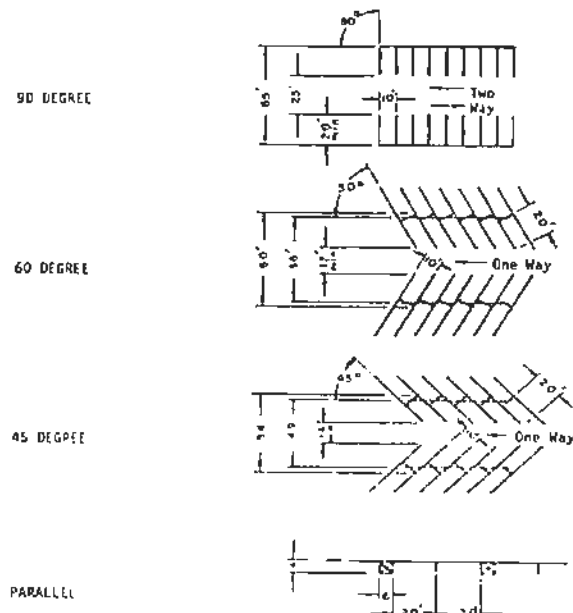
Section 20.03 - Off-Street Parking Lot Layout, Construction and Maintenance

Whenever a parking lot is built as required off-street parking, such parking lot shall be laid out, constructed, and maintained in accordance with the following requirements:

1. Adequate ingress and egress shall be provided for vehicles to the parking lot by means of clearly limited and defined drives.
2. Parking spaces in non-residential districts will be set back from abutting residential districts as follows:
 - a. Ten (10) feet from such side lot line.
 - b. A front lot line setback equal to the adjoining residential required setback, or if no adjoining residential district exists, the setback will be equal to the setback requirements of the district in which the lot is located.
 - c. Ten (10) feet from such rear lot line.
3. The land between the setback line and the lot line in a parking lot is for the purposes of this ordinance called a buffer strip. There shall be bumper stops or wheel chocks provided so as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials or sidewalks.
4. Where buffer strips are not required, bumper stops or wheel chocks shall be provided, and so located as to prevent any vehicle from projecting over the lot line.
5. Where the parking lot boundary adjoins property zoned for residential use, a suitable chain link wire fence shall be provided, but shall not extend into the required front open space of the abutting residential lot. Height limits of Section 6 apply to such fences.
6. The parking lot shall be drained to eliminate surface water.
7. The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of asphalt, concrete or gravel pavement.
8. Parking structures may be built to satisfy off-street parking regulations when located in other than residential districts, subject to the area, height, bulk, and placement regulations of such district in which located.
9. A plan for all new off-street parking lots shall be required, specifying the landscaping to be installed in the buffer strip including the placement and specifications of landscape materials and shall be subject to approval by the Administrative Official. If seasonal weather conditions present practical difficulties in the installation or completion of the buffer strips, the completion of the buffer strips may be deferred for not more than six (6) months. In reviewing and approving plans for the landscaping and improvement of required buffer strips, the Administrative Official shall be guided by the following criteria:
 - a. The buffer strip shall include landscape materials of shrubs and trees that will result in substantial screening of the parking lot and vehicles from the abutting residential districts.
 - b. The owner of the premises upon which the buffer strip is located shall maintain such landscaping in good condition so as to present a thriving, neat, and orderly appearance - free from refuse and debris. All diseased and dead material shall be replaced within one (1) year or the next appropriate planting period, whichever comes first.

10. The design of parking and loading spaces shall conform to the dimensional requirements contained in the following diagram:

PARKING LAYOUT
PARKING LAYOUT



Section 20.04 - Off-Street Loading and Unloading

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling, or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets, or alleys.

ARTICLE XXI SITE PLAN REVIEW PROCEDURES

Section 21.01 - Purpose

The purpose of this Article is to establish uniform requirements of procedure for all developments in the Township so that the provisions of this Zoning Ordinance can be equitably and fairly applied to all persons seeking to add to the existing development; so that both those developing property and the responsible Township officials can be assured that compliance with the Zoning Ordinance is both possible and correct prior to the issuance of a Zoning Compliance Permit and the starting of construction.

Section 21.02 - Developments Requiring Site Plan Approval

The following land, building, and structural uses require "Site Plan Approval":

- A. All condominiums and land subdivisions including land division plats and lot splits.
- B. All principal and special uses and their accessory uses in all Zoning Districts, except those specified in Section 21.03.
- C. All special uses and their accessory uses in all Zoning Districts.
- D. All principal and special uses and their accessory uses in a Planned Unit Development.

Section 21.03 - Developments not Requiring Site Plan Approval

- A. Single family homes and their accessory uses in all Residential Zoning Districts.
- B. General or specialized farming and forestry and their accessory uses and roadside stands in the AG or R-AG Zoning Districts.

Section 21.04 - Role of the Zoning Administrator

The Zoning Administrator shall not issue a Zoning Compliance Permit for construction of or addition to any use until a final site plan has been approved by the Township Board and is in effect. A use of land requiring site plan review and approval, not involving a building or structure, shall not be commenced or expanded until a final site plan has been approved by the Township Board and a Zoning Compliance Permit has been issued by the Zoning Administrator.

Section 21.05 - Site Plan Approval Required Prior to Starting Construction or Use of Land

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires site plan approval, until a final site plan is approved and a Zoning Compliance Permit issued, except as provided in this Article.

Section 21.06 - Preliminary Conference on Proposed Site Plan

An applicant may request a meeting with the Planning Commission for the purpose of reviewing and discussing a proposed preliminary site plan for the purpose of determining the feasibility of the project which the site plan represents. The request may be put on the agenda of a regularly scheduled meeting or on the agenda of a special meeting at the request of the applicant who shall pay all expenses for such a special meeting.

Section 21.07 - Preliminary Site Plan Requirements

A. **Application:** Any person may file a request for preliminary site plan approval by filing required forms with the Zoning Administrator, payment of the review fee, and at least ten (10) copies of a preliminary site plan drawing(s) and other documents. Upon receipt of such application, the Zoning Administrator shall transmit the preliminary site plan drawing(s) and other documents to the Planning Commission.

B. **Information Required for Review:** Every preliminary site plan submitted under this Article shall contain information required by Township regulations for site plan review, as specified in this Section.

1. **Submission Requirements:** Ten (10) copies of each submittal for site plan review shall be submitted to the Planning Commission for each application and site plan. The application shall, at a minimum, include the following information, except that which is deemed unnecessary. The Planning Commission may waive any of the following it deems unnecessary, and may at their discretion require the submittal of specifically needed information in addition to the following:

- a. The applicant's name, address, and phone number in full.
- b. Proof of property ownership and whether there are any options on the property or liens against it.
- c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf with the power of attorney to represent the owner in writing.
- d. The name and address of all owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and signature(s) of the owner(s).
- e. The address, tax parcel number, and legal description of the property.
- f. Name of project.
- g. A complete project description, including total number of structures, units, offices, square feet of building space, number of parking spaces and employees, the amount of recreation and open space, and related pertinent information as otherwise required by this Ordinance.
- h. Name and address of the developer (if different from the applicant).
- i. Name and address of the engineer, architect, land surveyor, landscape architect or other qualified designer of the project.
- j. A vicinity map drawn at a readable scale with North point indicated, which will satisfactorily be used to determine the exact location of the project property or site.
- k. The gross and net developable acreage involved in the project.
- l. Existing land uses, zoning classification and existing structures on the project and parcel and adjoining parcels including buildings, floor plans (footprint), number of floors, number of bedrooms in all structures, as applicable.
- m. Proposed project completion schedule and development phases, if not to be completed as one phase.
- n. Any use and occupancy restrictions, and if a condominium project, any maintenance provisions for any general and limited common elements as shall be contained in the Master Deed.

2. **Site Plan Requirements:** The site plan shall consist of an accurate, reproducible drawing at a readable and measurable scale of 1 inch equals 100 feet or less, in seven (7) copies, showing the site and all land within 150 feet of the site which depicts the following:

- a. Property lines, dimensions, legal descriptions, setback lines and monument locations to be prepared as a Plot of Survey by a Land Surveyor licensed to practice in the State of Michigan.
- b. Existing topographic elevations at two (2) foot contour intervals, proposed grades and direction of surface drainage and drainage way flows.
- c. The location and type of existing soils on the site and certification of soil borings.

- d. Location and type of significant areas of existing vegetation, wetlands, rock outcroppings, slopes of more than 10 percent, major stands of trees, large individual trees of 2 feet or more in diameter and areas of woodland vegetation (combination of trees, shrubs and other vegetation).
- e. Water courses and water bodies, including lakes, ponds, rivers, streams, flood plains and wetlands, county drains, and manmade surface drainage ways.
- f. Location of existing and proposed buildings and their intended uses as well as the length, width, and height of each building, including front, inside, and rear elevations.
- g. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, signs, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening, where applicable.
- h. Location of existing public roads, rights-of-ways, and private easements of record.
- i. Location of abutting roads and proposed alignment and gradient of roads, drives, curb cuts and access easements serving the development.
- j. Location and design of all barrier free access ways, including parking areas (including indication of all spaces and type of surfacing), fire lanes, and all outdoor lighting.
- k. Location, size, and characteristics of all off-street loading and unloading areas.
- l. Location and design of all sidewalks, walkways, and bicycle paths.
 - m. Location and design of public or common water supply lines or on-site wells, including fire hydrants and shut off valves, and the location and design of public or common waste water lines, cleanout locations, connection points and treatment systems, or on-site septic tank and tile field systems.
- n. Location of all other utilities on the site including but not limited to natural gas, electric power, cable TV, and telephone.
- o. Location of proposed public or common open spaces and facilities, if applicable.
 - p. Location, design, size, and construction specifications of all signs and advertising features.
- q. Location, design and specifications for all fences, walls, berms, and other screening features with cross sections.
- r. Location, landscape plans, and specifications for all proposed landscaping, and screening and other buffering features for each landscape feature and planting material. The proposed size of plants at time of planting and of all existing vegetation to be retained on the site shall be indicated.
- s. Method for all solid waste disposal.
 - t. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities and regulations.
- u. Identification of any significant site amenities or unique natural features.
 - v. Identification of any significant scenic views onto or from the site to or from adjoining area.
- w. North arrow, scale, and date.
 - x. Seal of the Michigan registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.
- y. All required permits, approvals and reviews in written form from all Federal, State, County, Township, School and other public agencies and officials under Federal, State, County or local laws and administrative rules and regulations.

C. **Planning Commission Action:** The Planning Commission shall study the plan and shall, within sixty (60) days of the filing date, recommend the approval with conditions, approval, or denial of the preliminary site plan to the Township Board. If denial is recommended, the Planning Commission shall prepare a report setting forth the conclusions of its study and the reasons for its denial. The time limit may be extended upon a written

request by the applicant and approved by the Planning Commission, or by mutual written agreement between the Planning Commission and the applicant.

- D. **Effect of Approval:** Approval of a preliminary site plan by the Township Board shall indicate its acceptance of the proposed layout of buildings, roads and drives, parking areas, and other facilities and areas, and of the general character of the proposed development. The Township Board may, with appropriate conditions attached, authorize issuance of a grading permit by the Zoning Administrator on the basis of an approved preliminary site plan. The conditions to be attached to a permit issued for grading and foundation work may include, but not necessarily be limited to, provisions for control of possible erosion, for excluding the Township from any liability, if an acceptable plan is not provided, and for furnishing a financial guarantee for restoration of the site if work does not proceed. Site plan approval requires that the applicant meet all of the requirements of the Michigan "Soil Erosion and Sedimentation Control Act," Public Act 347 of 1972, MCL 282.101 et seq.
- E. **Expiration and Extension of Approvals:** Approval of a preliminary site plan shall be valid for a period of six (6) months from the date of approval by the Township Board and shall expire and be of no effect unless an application for final site plan approval is filed with the Zoning Administrator within that time period. A six (6) month extension may be granted upon written request of the applicant and approval of the Township Board. The approval of the preliminary site plan shall also expire and be of no effect one year after approval of a final site plan, unless a Zoning Compliance Permit has been obtained for development shown on the approved final site plan within that time period.

Section 21.08 - Final Site Plan Requirements

- A. **Application:** Following approval of a preliminary site plan, the applicant shall submit ten (10) copies of a final site plan as well as other data and exhibits hereinafter required to the Zoning Administrator, the review fee, and a completed application form. The Zoning Administrator, upon receipt of the application, and upon payment of any fees and expenses, shall promptly transmit the final site plan to the Planning Commission.
- B. **Information Required for Review:** Every final site plan submitted for review under this Article shall contain information as required by Township regulations for site plan review, as specified in Section Article XXI - Site Plan Review and Article XVI - Planned Unit Developments and Article XXIII - Special Uses, as applicable.
- C. **Planning Commission Action:** The Planning Commission shall study the final site plan and recommend approval, approval with conditions, or denial of the final site plan, if it is consistent with the previously approval preliminary site plan within sixty (60) days of the date of the Planning Commission meeting at which the plan was received. This time limit maybe extended upon written request by the applicant, approval by the Planning Commission, and by mutual written agreement between the Planning Commission and the applicant. The Commission may suggest and/or require changes in the plan if there is need to comply with the Zoning Ordinance.

Upon Township Board approval of the final site plan, the applicant and owner(s) of record, and the Township Clerk or other designated Township official, shall sign the approved plan. The Township Board shall transmit one (1) signed copy of the approved final site plan to the Zoning Administrator, Township Clerk, the applicant, and Planning Commissioo.

If the final site plan is disapproved, the Township Board shall document the reasons for disapproval in its official minutes.

- D. **Effect of Approval:** Approval of a final site plan authorizes the Zoning Administrator to issue a Zoning Compliance Permit. Approval shall expire and be of no effect after six (6) months following approval by the Township Board, unless a Zoning Compliance Permit is applied for and granted within that time period. Approval of the final site plan shall expire and be of no effect one (1) year following the date of issuance of a Zoning Compliance Permit unless authorized construction has begun on the property in conformance with the approved final site plan. One extension of six (6) months from the date of approval of the final site plan for

good reason, as submitted by the applicant and with the approval of the Township Board may be granted to the applicant.

Section 21.09 - Criteria for Site Plan Review

In reviewing a preliminary or final site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with the regulations and objectives of this Ordinance and shall endeavor to assure that they conform to the following criteria:

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to the topography of the site; the size, shape, and type of the lot; the character and use of adjoining property; and the type and size of existing and proposed buildings and structures. The site shall be so developed as not to impede the normal and orderly planned development or improvement of surrounding and adjacent property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing vegetation and soil removal, and by topographic grading modifications which shall result in maximum harmony with adjacent areas.
- C. Special attention shall be given to proper site drainage so that storm water flow will not adversely affect neighboring properties.
- D. The site plan shall indicate the provision of reasonable visual and sound privacy for all building and structural units located on the site. Fences, walls, barriers, and landscaping shall be used in an appropriate manner, for the protection and enhancement of property both on site and adjacent.
- E. All buildings and areas shall be so arranged as to permit emergency vehicles access by some practical means to all parts of the site.
- F. Every structure shall have access to a public road, drive, walkway, and other areas dedicated to common use.
- G. A pedestrian circulation system shall be provided which is separated from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of berms, structures or plant materials and shall be no less than that required in this Ordinance.
- I. Exterior lighting shall be arranged so that the source of illumination is deflected away from adjacent properties and is not visible to traffic traveling on adjacent streets.
- J. Site plans shall conform to all applicable requirements of State and Federal statutes rules and regulations and approval may be conditioned on the applicant receiving required State and Federal permits before final site plan approval is granted.
- K. Site plans shall fully conform to the surface water drainage standards of County and State laws.
- L. Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission.
- M. Site plans shall fully conform to applicable fire safety and emergency vehicle access requirements of the Michigan Construction Code and/or local Fire Code and Fire Chief.
- N. Site plans shall fully conform to the County Soil Erosion and Sedimentation Control Ordinance requirements.
- O. Site plans shall fully conform to the requirements of the Michigan Department of Health and the County Health Department.

- P. Utility Service: Electric power and telephone distribution lines shall be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to adjacent properties and the site. The proposed method of water supply and wastewater disposal from all buildings shall be indicated. All utility installation shall be carried out in accordance with the Standard Rules and Regulations of current adoption of the Michigan Public Service Commission.
- Q. Advertising Features: The size, location and lighting of all permanent signs and outdoor advertising structures or features, shall be consistent with the requirements of Article XIX - Sign Regulations.
- R. Special Features: Outdoor storage areas, outdoor machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to setbacks, screen plantings or other screening methods required to prevent their being publicly visible and incongruous with the existing natural and developed uses and the environment and the uses of adjacent and surrounding properties.
- S. Additional Requirements: All other standards and requirements of this Article shall be met by site plans presented for review.

Section 21.10 - Modification Procedure

An applicant may, at his discretion and risk, combine a preliminary and final site plan in the application for approval. In such a situation, the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Commission shall have the discretion and the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexities and/or scale of the site of the proposed development so warrants the need to require both the preliminary and final site plan review and approval procedures.

Section 21.11 - Amendment of an Approved Site Plan

A site plan may be amended upon application and in accordance with the procedures provided in Section 21.07 herein, for a preliminary site plan, and Section 21.08 herein, for a final site plan. Minor changes in a preliminary site plan may be incorporated in a final site plan without amendment to the approved preliminary site plan at the discretion of the Township Board. The Township Board shall also have authority to determine if a proposed change requires an amendment to the approved site plan.

Section 21.12 - Modification During Construction

All site improvements shall conform to the approved final site plan. If the applicant chooses to make any changes in the development in relation to the approved final site plan, the applicant shall do so at his own risk, without any assurance that the Township Board will approve such changes. It shall be the responsibility of the applicant to notify the Zoning Administrator and the Township Board in writing of any such changes. The Zoning Administrator or the Township Board may require the applicant to correct the changes so as to conform to the approved final site plan.

Section 21.13 - Phasing of Development

The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall clearly indicate the location, size, and character of each phase. A preliminary and final site plan for each phase shall be submitted for approval.

Section 21.14 - Inspection

All underground improvements, such as utilities, subbase and base installations for roads, drives, walls, parking lots, and similar improvements shall be inspected by the Township Engineer, or other person designated by the Township Board, and accepted by action of the Township Board prior to covering. The Zoning Administrator shall be responsible for the inspection of all site improvements for conformance to the approved final site plan. The applicant shall be responsible for requesting appointments for making the necessary inspections. The Zoning Administrator shall notify the Township Board, in writing, when a development for which a final site plan was approved does not pass inspection with respect to the approved final site plan, and shall advise the Board of steps to be taken to achieve compliance. In such cases, the Zoning Administrator shall periodically notify the Township Board of progress towards compliance with the approved final site plan, and when and if compliance is achieved. The fee schedule established by the Township Board shall include a special schedule of fees to cover large and costly projects so as to adequately cover the costs of the Township inspections of such projects as required under the provisions of this Ordinance.

Section 21.15 - Fees

Fees for the review of site plans and any expenses associated with inspections incurred by the Township as required by this Article shall be established as part of the fee schedule established by resolution by the Township Board.

Section 21.16 - Financial Guarantees

Bonds, cash deposits, irrevocable bank letters of credit, or other acceptable forms of financial security shall be required of the applicant after a final site plan is approved and prior to issuance of a Zoning Compliance Permit for certain site improvements such as, but not limited to, roads or drives, parking lots, grading, landscaping, and buffers. A schedule for such financial security shall be established by resolution of the Township Board, and shall be administered by the Zoning Administrator. Such financial security may be released in proportion to work completed and approved upon inspection by the Zoning Administrator as complying with the approved final site plan. In the event that the applicant shall fail to provide improvements according to the approved final site plan, the Township Board shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited financial security, or may require performance by the bonding company.

Section 21.17 - Violations

The approved final site plan shall regulate development of the property. Any violation of this Article, including any improvement not in conformance with an approved final site plan, shall be deemed a violation, and shall be subject to the penalties of this Ordinance.

**ARTICLE XXII
RESERVED**

ARTICLE XXIII SPECIAL LAND USES

Section 23.01 - Intent

Special Land Uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Section is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Section shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.

Section 23.02 - Township Board Approval of Special Land Use Permits

The Sodus Township Board, hereinafter referred to as the Township Board, shall issue Special Land Use Permits, provided:

1. The proposed use is one listed as a special land use for that district in which said use is proposed to be located; and
2. The Sodus Township Board finds before approving a Special Land Use Permit request that both:
 - a. the standards of the district in which the special land use is to be located are fulfilled; and
 - b. the standards or other requirements of this Section are fully complied with.

Section 23.03 - Application and Approval Procedures

An application for permission to establish a special land use shall be submitted and acted upon in accordance with the following procedures:

1. **Eligible Applicants.** Any person owning or having an interest in the subject property may file an application for one or more Special Land Use Permits provided for in this Ordinance in the zoning district in which the land is situated.
2. **Application Submission.** Applications for Special Land Use Permits shall be submitted through the Sodus Township Clerk, hereinafter referred to as the Township Clerk, to the Sodus Township Board. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
3. **Required Information.** Three (3) copies of an application for a Special Land Use Permit shall be presented to the Township Clerk and accompanied by, but not limited to, the following documents and information:
 - a. A Special Land Use Permit application form supplied by the Township Clerk which has been completed in full by the applicant.
 - b. A site plan in conformance with Article XXI, of this Ordinance.
 - c. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 23.03 and other standards imposed by this Ordinance affecting the special land use under consideration.
 - d. **Incomplete Application.** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

4. **Transmittal of Application for Planning Commission Review.** The Township Clerk shall forward a copy of the application for the special land use request to the Township Planning Commission within seven (7) days of receiving the request. The Planning Commission shall review the application, in compliance with Section 23.03 and make recommendations, within forty-five (45) days after receipt thereof, to the Township Board for consideration. All comments or recommendations shall be advisory and be submitted in writing to the Township Board.

5. **Public Hearing before Planning Commission.** After a preliminary review of the site plan and an application for a Special Land Use Permit, the Township Planning Commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given in accord with the provision of Section Article XVII, Section 27.03 and 27.04.

6. **Township Board Review and Approval.** The review of an application and site plan requesting a Special Land Use Permit shall be made by the Township Board in accord with the procedures and standards specified in Section 23.03 and 21.09. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a Special Land Use Permit shall be approved by the Township Board if they comply in all respects with the requirements of this ordinance and other applicable county, state or federal laws, rules or regulations. Approval and issuance of a Special Land Use Permit shall signify prior approval of the application and site plan therefore, including any modification and any conditions imposed where necessary to comply with this ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the Special Land Use permit and shall be enforceable as such. The decision to approve or deny a request for a Special Land use Permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify; the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with the ordinance, and any conditions imposed with approval. Once a Special Land Use Permit is issued, all site development and use of land on the property affected shall be consistent with the approved Special Land Use permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Township Board and is documented as such.

7. **Issuance of a Special Land Use Permit by Zoning Administrator.** Upon approval by the Township Board, the Zoning Administrator shall issue a Special Land Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions, and restrictions of any Special Land Use Permit and take any enforcement action necessary in the event of a violation of the Special land Use Permit.

Section 23.04 - Standards for the Determination of Approval or Denial

Prior to approval of a special land use application and required site plan, the Township Board shall insure that the standards specified in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

1. **General Standards.** The Township Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards, and shall submit for approval by the Township Board a special land use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

- b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special land use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Township Development Plan.
2. **Conditions.** The Township Board may impose reasonable conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this section and any other applicable Township ordinances and regulations. Such conditions shall be considered an integral part of the Special Land Use Permit and approved site plan and shall be enforced by the Zoning Administrator.

The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

3. **Performance Guarantee.** In authorizing a Special Land Use Permit, the Township Board may require that a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the developer to insure compliance with an approved site plan and the Special Land Use Permit requirements. Such guarantee shall be deposited with the Township Clerk at the time of the issuance of the Special Land Use Permit. In fixing the amount of such performance guarantee, the Township Board shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Act No. 288 of 1967, as amended. The Township Board and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the Special Land Use Permit.

Section 23.05 - Effective Date and Issuance of Special Land Use Permit

The Special Land Use Permit shall become effective when the application has been approved by the Township Board.

1. A building permit shall not be issued until approval of such Special Land Use Permit by the Township Board.

2. Until a building permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.

3. Land subject to a Special land Use Permit may not be used or occupied for purposes of such special land use until after a certificate of occupancy for same has been issued pursuant to the provisions of this Ordinance.

Section 23.06 - Permit Validity

1. Approval of a Special Land Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
2. In instances where development authorized by a Special Land Use Permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the Township board shall review the permit in relation to the applicable standards and requirements of this ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the Special Land Use Permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the property owner shall be notified prior to the revoking of said permit. Where it is determined that such permits are in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the Special Land Use Permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

Section 23.07 - Requirement for Compliance and Penalties

It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a Special Land Use Permit and approved site plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in Article XXV, Sections 25.06, 25.07, 25.08, 25.09, and 25.10, and the continuance thereof is declared to be a nuisance per se.

Section 23.08 - Once Granted a Special Land Use Permit, the Use is a Permitted Use

Any use for which a Special Land use Permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:

1. Such permit was issued in conformity with the provisions of this Ordinance, and
2. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Land Use Permit shall have been explicitly granted, and
3. Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the ordinance, the Special Land Use Permit, and all conditions established with its approval.

Section 23.09 - Specific Requirements of the Zoning District Apply

The foregoing general requirements are basic and apply to all special land uses. Specific requirements of the zoning district in which the property upon which the special land use is to be located relating to particular special land use are in addition to, and shall be required in all applicable situations.

ARTICLE XXIV CONDITIONAL REZONING

Section 24.01 - Intent

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

Section 24.02 - Application and Offer of Conditions

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

Section 24.03 - Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in the Township Zoning Ordinance and this Article, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

Section 24.04 - Township Board Review and Approval Procedure

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in the Township Zoning Ordinance and this Article. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 401 (7) of the Michigan Zoning, Enabling Act, P. A. 110 of 2007, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

Section 24.05 - Approval

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
 - 1. Be in a form recordable with the Berrien County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - 2. Contain a legal description of the land to which it pertains.
 - 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds.
 - 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

Section 24.06 - Compliance with Conditions

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of the Zoning Ordinance and this Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

Section 24.07 - Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Section 24.08 - Reversion of Zoning

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 24.07 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

Section 24.09 - Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 25.08 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds a notice that the Statement of Conditions is no longer in effect.

Section 24.10 - Amendment of Conditions

- A. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

Section 24.11 - Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2007, as amended.

Section 24.12 - Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 24.13 - Consideration

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

**ARTICLE XXV
ADMINISTRATION AND ENFORCEMENT**

Section 25.01 - Purpose

The purpose of this Article is to provide for the organization of personnel and procedures for the administration of the Ordinance, including the submittal and review of land use and development plans, issuance of land and structural use zoning compliance permits, inspections of properties for compliance with the Zoning Map and regulations, establishment and collection of permit fees, handling of violators and enforcement of the provisions of this Ordinance and any amendments to it.

Section 25.02 - Administration

The provisions of this Ordinance shall be administered by the Building Inspector and/or Zoning Administrator, Township Board, the Township Planning Commission and such other personnel as designated by the Township Board in accordance with the Michigan P.A. 33 of 2008, as amended, "Michigan Planning Enabling Act", Michigan P.A. 110 of 2007, the "Michigan Zoning Enabling Act", as amended, and this Zoning Ordinance.

The Township Board may employ a Zoning Administrator who shall act as the officer to carry out the enforcement of this Ordinance. The person selected, the terms of employment, and the rate of compensation shall be established by the Township Board.

Section 25.03 - Duties of Zoning Administrator

- A. Receive and review all applications for Zoning Permits, including those for approved Special Uses, Planned Unit Developments, and Zoning Board of Appeals grants of variances, and approve or disapprove such Zoning Permit applications, plus Temporary Medical Hardship Permits for temporary dwelling structures pursuant to Article XVIII, Section 18.14, based on compliance with the provisions of this Ordinance and shall approve issuance of the permit, if the use and the requirements of this Ordinance and any approved site plans are met.
- B. The Zoning Administrator shall assist the Township Board, the Planning Commission and the Zoning Board of Appeals in the processing and administering of all zoning appeals for variances, special use permits, planned unit developments, and amendments to the Zoning Ordinance.
- C. The Zoning Administrator shall be responsible to update the Official Township Zoning Map and keep it current, and the map shall be placed on file in the Township Clerk's office.
- D. The Zoning Administrator shall prepare and submit to the Township Board and the Planning Commission a written record of all Zoning Compliance Permits issued during each quarter of the calendar year. The record shall state the owner's name, location of property, intended use, and estimated cost of construction for each permit.
- E. Maintain written records of all actions taken by the Zoning Administrator.
- F. Grant Administrative Variances as provided in this Article.
- G. Provide period reports to the Township Supervisor.

Section 25.04 - Reserved

Section 25.05 - Zoning Compliance Permit

A. Zoning Compliance Permit Requirements

A Zoning Compliance Permit is required for and shall be obtained after the effective date of this Ordinance from the office of the Zoning Administrator or his agent by the owner or his agent for the following conditions:

1. The administrative coordination of Zoning Compliance Permits issued by the Township Zoning Administrator and Building Permits by the Building Inspector shall be in accordance with Section 24.05.B of this Ordinance.
2. The staking out, grading or any other construction relating to all land developments intended or capable of meeting the requirements of this Ordinance for possible land, building, or structural use.
3. The construction, enlargement, alteration, demolition, or moving of any dwelling, building, or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public, or semi-public purposes.
4. Repairs of a minor nature or minor alterations which do not change the use occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a Zoning Permit.

B. Application for a Zoning Compliance Permit

Application for a Zoning Compliance Permit shall be made by the property owner and other owners or an owner(s) designated representative in writing upon a form furnished by the Zoning Administrator, including the following information either on the application form, supporting documentation, or on a site plan:

1. The location, shape, area, and dimensions for the parcel(s), lot(s) or acreage, and all existing improvements on the lot or parcel delineated on a plot of survey prepared by a licensed Land Surveyor, including rights-of-ways, easements, sewer and water, drainage, and at the request of the Zoning Administrator, other data including: 1) large trees six (6) inches or more in diameter for the portion of the site to be developed, 2) important natural features, including shorelines, surface water features, wetlands, and when required for analysis of compliance with the terms of this ordinance, topography at two (2) foot contour intervals.
2. The location of the proposed construction, upon the parcel(s), lot(s), or acreage affected, including all buildings and structures, e.g. walls, fences, berms, walks, drives, roads, parking areas, landscaping, buffers, and utilities.
3. The dimensions, height, and floor area of structures, including the perimeter pattern of foundation ("footprint") for each building and structure.
4. The type of the proposed construction, alteration, or repair and the intended use, including buildings and structures, water supply and wastewater disposal systems, surface and underground drainage and impoundment system, public utilities, offices, working areas, and recreation rooms.
5. The proposed number of dwelling units, sleeping rooms in each dwelling unit, occupants per dwelling unit and employees, customers, other uses (commercial, industrial, public and semi-public), and the floor area dimensions of each.
6. The present use of any structure affected by the construction or alteration.
7. All yard, open land area, and parking space dimensions, if applicable.
8. The proposed plan and specifications of curb cuts, walks, drives, driveway entrance lanes, and off street parking spaces, if applicable.
9. The proposed plan and specifications of off-street loading and unloading spaces provided, if applicable.

10. Present zoning, proposed and required minimum setbacks, proposed and permitted maximum lot coverage, and zoning of adjacent properties.
11. Height, size, and location of all signs, including both freestanding and on structures.
12. Any other information deemed necessary by the Zoning Administrator to determine and provide for conformance to and the enforcement of this Ordinance and to assure compliance of approved site plans for special uses and planned unit developments.
13. A statement on the potential impact of the proposed development on the present natural conditions of the lot or parcel and the impact on adjacent properties and their present and future uses.

C. Project Compliance Requires Issuance of Permit

If the information included in and with the application is in compliance with these requirements and all other provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit upon payment of the required Zoning Compliance Permit fee.

D. Voiding of Permit

Any Zoning Compliance Permit granted under this Article shall be null and void unless the development proposed shall have its first inspection within one (1) year from the date of granting the permit. It is the responsibility of the recipient of any approval granted pursuant to the terms of this ordinance to notify the Zoning Administrator, 30-days prior to the expiration of any permit issued by the Township requesting an extension. Failure to contact the Zoning Administrator, in writing, requesting an extension shall void the permit immediately upon the expiration date.

E. Fees, Charges, and Expenses

The Township Board shall establish a schedule of fees, charges, and expenses and a collection procedure for Zoning Compliance Permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be on file in the Township Clerk and Zoning Administrator offices and may be altered or amended only by the Township Board. No permit, certificate, special use approval, or variance shall be issued until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full according to the provisions of the resolution establishing the fee schedule, nor shall any action be taken on proceedings before the Zoning Board of Appeals, until all applicable charges and fees have been paid in full.

F. Inspection

The construction or usage affected by any Zoning Compliance Permit shall be subject to the following inspections:

1. At the time of staking out a building foundation or the location of a structure.
2. Upon completion of the construction authorized by the Zoning Compliance Permit.
3. It shall be the duty of the holder of every Zoning Compliance Permit to notify the Zoning Administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the Zoning Administrator shall determine whether the location of the proposed building(s) and structure(s), as indicated by corner and location stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Zoning Administrator shall then issue his written approval at the time of inspection if the building or proposed construction meets the requirements of this Ordinance.
4. Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify, in writing, the holder of the permit or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and

approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified in writing by the Zoning Administrator.

5. Should a Zoning Compliance Permit holder fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements, and such posting shall be considered as service upon the notice to the permit holder of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

G. Certificate of Occupancy

No building or structure or use for which a Building Permit has been issued shall be used or occupied until the Administrative Official has, after final inspection, issued a Certificate of Occupancy indicating his opinion that all the provisions of this ordinance are being complied with. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provision of this ordinance.

Section 25.06 - Violations and Penalties

Any person, partnership, corporation, or association who violates any provision of this ordinance shall be guilty of a misdemeanor punishable by imprisonment in jail for not more than ninety (90) days, or the maximum fine established by a court of competent jurisdiction, or both such imprisonment and fine, together with the cost of prosecution. Each day that such violation continues shall constitute a separate and distinct violation under the provisions of this Ordinance. A prosecution under this section shall be commenced by an appearance ticket signed by the Zoning Administrator, or other official designated by the Township Board, or by a complaint and warrant issued by the Trial Court of Berrien County. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

Section 25.07 - Nuisance Per Se

Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted, or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

Section 25.08 - Nuisance Penalties

Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined in Section 25.07 above, shall be guilty of a misdemeanor punishable in accord with the provision of Section 25.06, above.

Section 25.09 - Abatement of Nuisance

In addition to the criminal penalties provided in this Ordinance, the Township may initiate proceedings in Trial Court of Berrien County to abate or eliminate the nuisance.

Section 25.10 - Show Cause Hearing

Before initiating or requesting enforcement action under this Ordinance, the Township Board, Zoning Board of Appeals, or Planning Commission may, but is not required, to issue a notice of hearing directed to the person, partnership, corporation, or association alleged to be in violation of this Ordinance. The purpose of this hearing is to grant to the alleged violator(s) an opportunity to show cause why enforcement action should not be commenced. The notice issued pursuant to this section shall note the date, time, and location of the hearing. The notice shall be sent to the alleged violator(s) by first-class mail at the last known address as appears on the tax assessment rolls or at a different address known to the Township to be the address of the alleged violator(s). Any alleged violator served with a notice of hearing as provided in this section shall not be required to attend the hearing.

ARTICLE XXVI ZONING BOARD OF APPEALS

Section 26.01 - Establishment of Board of Appeals

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 601, P. A. 110 of 2007, as amended, the "Michigan Zoning Enabling Act" and as provided in this Ordinance in such a way that the objectives of this Ordinance shall be enforced, the public health, safety, and welfare secured, and substantial justice done.

Section 26.02 - Membership and Terms of Office

A. Regular Members

The Zoning Board of Appeals shall consist of five (5) members. The first member of such Board of Appeals shall be a member of the Township Planning Commission, to be appointed by the Planning Commission, for the terms of office; the second member may be a member of the Township Board, selected by the Township Board for the term of office; and the other members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township for terms of three (3) years provided that no elected officer of the Township, nor any employee of the Township Board may serve simultaneously as the elector member or as an employee of the Zoning Board of Appeals. The Chairman of the Zoning Board of Appeals shall be elected from among any of its members each year at the first regular meeting held at the beginning of each calendar year. The Township Board member appointed to the Zoning Board of Appeals shall not serve as Chairman nor shall the Township Planning Commission member serve as the Chairman if they also hold the position as Chairman of the Township Planning Commission.

B. Alternate Members

The Township Board may appoint two (2) alternate members for the same term as the regular members who may be called by the Chairman to serve in the absence of a regular member (for any reason) or upon the excused absence of a regular member (for any reason) to serve as a regular member of the Zoning Board of Appeals. In such cases the alternate member shall be afforded the same voting rights as a regular member and serve in the capacity as a regular member for any and all cases until a final decision is made.

Section 26.03 - Rules of Procedure, Majority Vote

The Board may adopt its own bylaws or rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance due to unnecessary hardship or practical difficulties.

Section 26.04 - Meetings

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or by any two of its members, excluding alternate members, and at such other times as the Board in its bylaws may specify.

Section 26.05 - Public Meetings and Minutes

All meetings of the Zoning Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the final disposition of each case. The grounds or reasons of every determination shall be stated, in writing, and recorded as part of the official minutes and record of the Board. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be sent promptly to the applicant or appellant and to the Zoning Administrator. The Township Clerk shall act as the depository for all official files of the Zoning Board of Appeals.

Section 26.06 - Powers and Duties

The Zoning Board of Appeals shall have powers to interpret the provisions of this Ordinance, to grant variances from the strict application of any provisions of this Ordinance, and as otherwise provided in this Ordinance.

- A. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by the Township Board, Planning Commission, or Zoning Administrator in the administration of this Ordinance as hereinafter provided, and shall have power to interpret the provisions of this Ordinance and to grant variances from the strict application of any of the provisions of this Ordinance as follows:
1. To decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty about its location.
 2. To grant variances from any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or unnecessary hardships resulting from such strict application. No variance shall be granted to permit the establishment within a district of any use which is specifically not included, is prohibited, or for which a special use approval is required.
 3. To permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the Board shall find the use, height, area, building or structure reasonably necessary for the public convenience and service; and provided that such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and environmental character of the District in which it is to be located.
 4. Determine the classification of off-street parking and loading requirements in Article XIX, Section 19.09.

Section 26.07 - Variances

A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

- A. A written application for a variance is submitted by a fee owner and other owners or a designated representative, demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same Zoning district so as to present such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning district under the provisions of this Ordinance.
 3. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Ordinance to other lands, structures, or buildings in the same Zoning District.
 4. That issuance of any variance or the acknowledgement of any nonconformity regardless of the zoning district designation shall be considered grounds for the issuance of a variance.
- B. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met in the Zoning district in which it is located by the applicant for the variance requested.
- C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.

- D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order for the variance to be in conformance with this Ordinance as much as reasonably possible. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Sections 25.06 through 25.10 of this Ordinance.
- F. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance requested is to be located.
- G. In making the above determinations the Zoning Board of Appeals shall refer to the following considerations:
1. The requested variance is applicable to only the property under the ownership control of the applicant.
 2. The requested variance is not the result of an action taken by the applicant to specifically create the conditions leading to the request.
 3. The requested appeal will not be contrary to the intent and purpose of any part of this Zoning Ordinance.
 4. The requested variance(s) will be the minimum variance(s) required to allow the property owner to overcome the adversity created by the Zoning Ordinance to the extent that the property cannot be used for any reasonable purpose.
 5. The requested variance will overcome the possibility of economic considerations to the extent that confiscation or the lack of reasonable profitability of the property will not result, but, if the variance is requested to simply make its use unreasonably valuable, or profitable, the variance has no standing if it is found that these are the only reasons the variance is requested.
 6. The requested variance, if granted, is based primarily on the fact that the property in question is unique or different from all other properties in the same Zoning district as to find it necessary to grant the variance in order to give the unique property the same privileges of use as that which is both permitted and enjoyed by all other properties in the same District.
 7. The requested variance, if granted, will not create a precedent which can be applied generally to other properties in the same District, so as to establish through the precedent, what in effect could become and should be legislative action to amend the Zoning Ordinance rather than to create the possibility of granting variances over and over again for the same reason.
 8. The request, if granted, will not cause a substantial adverse effect upon adjacent properties in the District or the Zoning Ordinance itself in a more general way.
 9. The requested variance will not unreasonably alter the essential character of the Zoning district in which it is located as to either dimensional requirements or permitted uses.
 10. The requested variance will not create a hazard to the public health, safety, and general welfare of the persons in the Zoning district and the Township generally.
 11. The requested variance will not produce nuisance conditions to the occupants of adjacent properties and the surrounding area in terms of the emission of noise, odor, dust, smoke, vibration, glare, heat, or inconsistent or untimely activity in relation to that normally associated with the permitted use activities in the District.

12. The requested variance will not add substantially more to the generation of traffic than that which is generated by other permitted uses in the District.

13. That the requested variance, if dimensional in nature, is the result of conditions existing in relation to a lot or parcel, but not of the creation of the applicant, including such possibilities as narrowness, shallowness, or irregular shape of lot due to platting or parceling prior to the enactment of this zoning ordinance, or if the lot or parcel has unusual natural characteristics such as topography, water features, wetlands, vegetation, geological or soil conditions, historical, archaeological or other unusual features, etc.

14. That the variance granted is the minimum necessary to permit the reasonable use of the property in terms of the comparable reasonable use of all other properties in the Zoning District.

Section 26.08 - Voiding of and Re-application for Variances

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one year (1) after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

Section 26.09 - Procedure for Appealing to the Zoning Board of Appeals

- A. **Appeals, How Taken:** Appeals from the ruling of the Township Zoning Administrator may be made to the Zoning Board of Appeals in the following manner:
 - 1. The person, firm or agent thereof making the appeal shall include the fee owner of the property in question and others and shall file in writing to the Township Clerk a letter stating what the specific appeal is and the reasons for said appeal. The appeal shall be filed by not less than thirty (30) days prior to regular monthly meeting of the Zoning Board of Appeals.
 - 2. The Township Clerk submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. **Who May Appeal:** Appeals to the Zoning Board of Appeals maybe taken by any person aggrieved or by an officer, department, board, agency or bureau of the Township, on the matter of zoning decisions.
- C. **Fee for Appeal:** A fee prescribed by the Township Board shall be submitted to the Township Clerk at the time of filing the letter of appeals.
- D. **Effect of Appeal:** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the Notice or Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

Section 26.10 - Hearing by the Zoning Board of Appeals

When a request for appeals has been filed in proper form with the Zoning Board of Appeals, the Chairman shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place and object of the hearing to be served personally or by mail pursuant to Article XVII, Section 27.03.

Section 26.11 - Representation at Hearing

During a hearing, any party or parties may appear in person or by an agent, including an attorney, engineer, architect, planner, landscape architect, realtor, or other representative designated by the fee or other owner(s) of the parcel in question.

Section 26.12 - Board of Appeals Action

The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premise and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Zoning Board of Appeals' decision of such appeals shall be in the form of a motion containing a full record of the findings and determination of the Zoning Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court of Berrien County on questions of law and fact.

Section 26.13 - Delay Required in Issuing Zoning Permits

An aggrieved party to a zoning variance decision must appeal the decision within 21 days of the decision of the Zoning Board of Appeals to the Circuit Court of Berrien County. If the Township receives notice of an appeal within the 21-day period, no further action shall be taken by the Zoning Administrator until the matter has been heard and decided by the Circuit Court.

ARTICLE XXVII AMENDING THE ZONING ORDINANCE

Section 27.01 - Changes and Amendments

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

Section 27.02 - Procedures

The procedure for making amendments to this Ordinance shall be in accordance with the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended.

A petition prepared and submitted by any qualified applicant, the Township Board, or the Township Planning Commission, together with a completed and signed application and any required fees (if applicable), shall be filed with the Township Zoning Administrator. The petition shall be filed by the petitioner not less than twenty (20) days prior to regular monthly meeting of the Planning Commission. The Zoning Administrator shall review the application as to form and, when it is approved, transmit same to the Township Planning Commission for review and report. The Zoning Administrator shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Public Act 110 of 2007, as amended, the Michigan Zoning Enabling Act. The Zoning Administrator shall also, for any proposed amendment to the Zoning Map, give notice thereof, and of the public hearing, to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and multiple-family dwellings within three hundred (300) feet as prescribed by law. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. The notice shall be made at least fifteen (15) days prior to the hearing.

Requirements of written notice to property owners shall not apply to comprehensive revisions to the Zoning Ordinance. Public hearing requirements shall also apply to amendments initiated by the Township Board or the Township Planning Commission.

Section 27.03 - Notice of Public Hearing and Content of Notice

A. The Zoning Administrator shall give Notice of Public Hearing in the following manner:

1. Publication in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the public hearing.
2. Notice sent by mail or personal delivery to the owners of property for which the matter of the public hearing is being held.
3. Notice sent by mail to all persons to whom real property is assessed within 300 feet of the property subject to the public hearing matter.
4. Notice by mail or personal delivery to all occupants of all structures within 300 feet of the property subject to the public hearing matter.

B. The content of the public notice shall include:

1. A description of the nature of the request.
2. The description of the property that is subject to the request, including the street address or addresses if more than one property and if no addresses are assigned another means of identification.
3. The date, time and location of the hearing.

4. The time for submission of written comments and location where they will be accepted.
- C. Where the matter includes 10 or less property owners, notice by mail or in person shall be given pursuant to subparagraph A above. However, where the matter includes more than 10 properties individual notice as required in subsection A paragraphs 3 and 4 is not required pursuant to the Michigan Zoning Enabling Act.

Section 27.04 - Information Required

The applicant shall submit a detailed description of and the reasons for the requested zoning change to the Township Zoning Administrator. When the application involves a change in the Zoning District Map, the applicant shall submit the following information:

- A. The legal description of the property.
- B. A scaled map or plot of survey of the property, which correlates with the legal description, and an area map clearly showing the property's location with the certified signature of the owner affixed to the application for rezoning.
- C. The name and address of the petitioner.
- D. The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner with the signatures of all of the owners affixed to the petition requesting the zoning change.
- E. Date of filing with the Township.
- F. Signature(s) of the applicant(s) and all of the owner(s) certifying the accuracy of the information contained in the application.
- G. A complete description of the requested change and the reasons for wanting the change in zoning from that which the Zoning Ordinance text or Zoning District Map already provides.

Section 27.05 - Steps in Making a Change

- A. The petitioner submits application and fee to the Township Zoning Administrator.
- B. Clerk transmits application to Planning Commission, sets hearing date, and publishes notices of hearing.
- C. Planning Commission holds hearing, makes its decision stating its reasons in the official written record, and transmits the record of its decision as its recommendation to the County Planning Commission and to the Township Board.
- D. Township Board reviews Township Planning Commission's recommendation and those of the County Planning Commission and either enacts or rejects the proposed change as an Ordinance amendment, and, if approved, publishes the text of the change in a newspaper of general circulation in the Township.

Section 27.06 - Findings and Conclusions Required

In reviewing an application for a zoning change, the Planning Commission shall identify and evaluate all factors relevant to the requested change, and shall report its findings in full, along with its recommendations for disposition of the requested change, to the Township Board within sixty (60) days of the filing date of the application.

The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- A. Whether the requested zoning change is justified because of a change in conditions since the original ordinance was adopted or because of an error in the original ordinance.

- B. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. The compatibility of the requested amendment with the Township or other government agencies which provide any services, facilities, and/or programs that might be required if the application were approved.
- D. Effect of approval of the application on adopted development, policies of the Township and other government units.
- E. All findings of fact, conclusions and reasons for approval or denial shall be made a part of the official published public records of the meetings of the Planning Commission and Township Board. A zoning amendment shall not be approved, unless all identified facts are affirmatively resolved that they are needed to preserve and protect the general health, safety, welfare, comfort and convenience of the citizens of the Township, or of other civil divisions, if applicable.

ARTICLE XXVIII DEFINITIONS

Section 28.01 - Construction of Language

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

1. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense.
3. The word shall is mandatory, the word may is permissive.
4. The words used or occupied include the words intended, designed, or arranged to be used or to be occupied.
5. The word lot includes the words plot or parcel.
6. Terms not herein defined shall have the meaning customarily assigned to them.

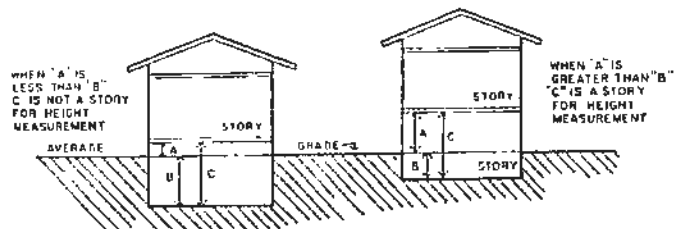
Section 28.02 - Definitions

Accessory Use of Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Agriculture. All contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner or by his agent or by a tenant farm that meets the definition of agriculture as set forth by the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended, the Farmland and Open Space Preservation Act, P.A. 116 of 1974, amended by P.A. 262 of 2000, including "substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains; feed crops and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities."

Basement. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Buildable Area. The portion of a lot remaining after required yards have been provided.



Building Height. The vertical distance measured from the established grade to the highest point of the roof's surface average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, height may be measured from the average ground level of the grade at the building wall.

Building Inspector. For the terms of this ordinance, the Building Inspector, or other person designated by the Township Board, shall serve as the Zoning Administrator for the administration of this ordinance. The term Building Inspector means the Zoning Administrator and the term Zoning Administrator means the Building Inspector.

Cluster Development. A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission be constructed on fifty (50) percent of the total developable land area (or less), provided that fifty (50) percent or more, of the total developable land area remain in open space protected from development through a permanent easement or other form of dedication acceptable to the Township Board.

Common Open Space. A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended, or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development, but shall not include areas reserved for the exclusive use or benefit of any individual tenant or owner; dedicated streets or other public right-of-way; vehicular drives, parking areas, loading and storage areas; and areas reserved for nonresidential related uses.

Communication Tower. A radio, telephone, cellular telephone, television relay structure or skeleton frame work, or monopole attached directly to the ground or other structure utilized for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals regulated by Ordinance 22. Included in this definition are accessory structures and/or enclosures.

Not included in this definition are citizen band radio facilities, short wave facilities, ham and amateur radio facilities, television reception antenna, satellite dishes, and government facilities which are subject to state and federal law or regulations that preempt municipal regulatory authority.

A communication tower shall not be included under the definition of essential services.

Conservation Development. See: "Cluster Development."

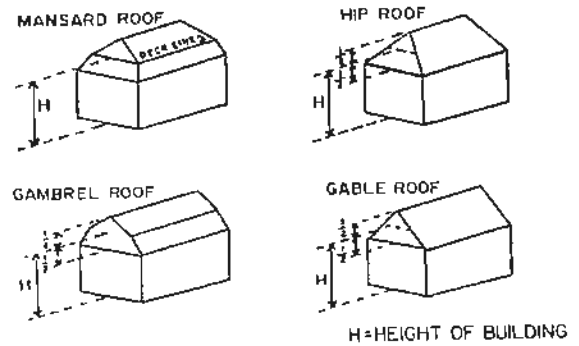
Drive-In Restaurant or Refreshment Stand. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, Mobile Home. A detached residential dwelling unit designed to be used with or without a permanent foundation, as a dwelling unit, designed for and occupied by one (1) family only.

Dwelling, Double Mobile Home. Mobile home consisting of two sections combined horizontally at the site, while still retaining their individual chassis for possible future movement.

Dwelling, Expandable Mobile Home. Mobile home with one or more room sections that fold, collapse or telescope into the principal unit when being transported and which can be expanded at the site to provide additional living area.

Dwelling, Modular Unit. Factory-fabricated, transportable building unit placed upon a foundation designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.



Dwelling, Sectional Home. Dwelling made up of two or more modular units, factory fabricated, and transported to the home site where they are put on a foundation and joined to make a single house.

Dwelling, Single-Family. A structure containing not more than one dwelling unit (as defined by the Michigan Residential Construction Code) intended solely for use and occupancy by one (1) family. The unit shall also comply with the following standards (The following standards shall not apply to a mobile home located in a licensed mobile home park as provided for in Article VIII of this Ordinance except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.):

1. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. It has a minimum width across any front, side or rear elevation of twenty-eight (28) feet and complies in all respects with the Township building code including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Township building code, then and in that event such federal or state standards or regulations shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, and shall have a perimeter wall as required above
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, under carriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Berrien County Health Department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six (6) inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrative Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Administrative Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition, as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and

appearance of one or more residential dwellings located outside of mobile home parks throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

8. The dwelling contains no additions or rooms or other areas which are not constructed with similar workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

9. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CRF 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load or strength requirements.

10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

Dwelling, Two-Family. A detached residential building, other than a mobile home, containing two (2) dwelling units designed for occupancy by not more than two (2) families.

Dwelling, Multiple-Family. A residential building, other than a mobile home, designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit. A room or rooms connected together constituting a separate, independent housekeeping establishment for one (1) family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

Essential Services. The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

Farm. The conduct of any agricultural activity or the raising of crops, livestock, small animals and the like as a source of income that is compliant with terms of this ordinance or as a nonconforming use provided such farming activities are compliant with Generally Accepted Agricultural Management Practices established by the Michigan Department of Agriculture.

Family. For the purposes of this ordinance, a family is:

1. One (1) or more persons, occupying a single dwelling unit, all related by blood, legal adoption, or marriage, and not more than three (3) other persons; or
2. Not more than three (3) unrelated persons.

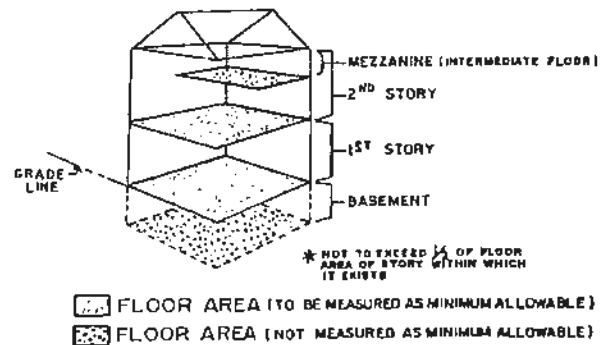
Domestic servants employed on the premises may be housed on the premises without being counted as a family or part of a family.

Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where other incidental services may be rendered and sales made.

Uses permissible at a filling station do not include major mechanical and body work, straightening body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage or a body shop.

Finished Grade or Established Grade - The ground elevation established for the purpose of regulating the number of stories and the height of buildings or structures. The finished or established grade shall be the level of the ground adjacent to the walls of the building (or structure) if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (or structure) measured at the center point of each face of the building (or structure).

Floor Area. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a Building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators, or stair bulkheads, common hall areas, and accessory structures.



Floor Area, Usable (For the purpose of computing parking). Is that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers and all that area devoted to employee work space. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, elevators or stair bulkheads, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the same for the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

Home Occupation. An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling for residential purposes.

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. A required off-street loading space is not to be included as an off-street parking space in computation of required off-street parking space.

Lot. For the purposes of this ordinance, a lot is a parcel of land of at least sufficient size exclusive of areas under water to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required. Such lot shall have the required uninterrupted frontage on a recorded or public street or private road and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record;
4. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots all sides of a lot adjacent to streets shall be considered frontage.

Lot Measurements.

Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, provided, however, that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the measured width shall be taken at the rear line of the principal building or thirty (30) feet behind the front setback line, parallel to the street or street chord.

Lot of Record. A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types. The adjoining diagram illustrates terminology used in this ordinance with reference to corner lots, interior lots and through lots:

A = corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curve street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A (1) in the diagram.

B = Interior lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C = Through lot, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Mobile Home. A vehicular, portable structure built in accordance with standards of the national Fire Protection Association No. 501B-1973, American National Standards Institute No. A119.1-1974, as indicated on the manufacturer's data plate as required by the Michigan Construction Code Commission Rule No. R. 408.31136, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty consecutive days.

Mobile Home Park. Any parcel or tract of land licensed and registered under provisions of the State Mobile Home Park Act, being Act 243 of the Public Acts of 1959, as amended, and the provisions of the Mobile Home Commission Act, Act 419, P.A. 1976, as amended, under the control of any person, upon which 3 or more occupied mobile homes are harbored on a continual nonrecreational basis, or which is offered to the public for that purpose,



regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the harboring or occupancy of mobile homes.

Mobile Home Subdivision. A "subdivision" as defined by the state Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of the aforementioned Act and of all other applicable state, county, and township regulations.

Parking Lot, Off-Street. Three (3) or more adjoining parking spaces.

Parking Space, Off-Street. For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten (10) feet by twenty (20) feet.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the municipality.

Parcel. Contiguous real estate taxed as a single parcel on one side of a public road.

Person. Any individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee, and their legal successors.

Permit. See Zoning Compliance Permit

Planned Unit Development. A parcel or tract of land initially under unified ownership or control, and which is or intended to be the site of two or more principal use buildings that is planned and constructed as a unified development where specific regulations of a given zoning district are modified through the approval of a site plan.

Planned Unit Development - Traditional. A Planned Unit Development where uses other than those allowed by the terms of the underlying zoning district regulation is permitted by decision of the Planning Commission.

Planned Unit Development - Cluster Development. A Planned Unit Development designed to comply with the requirements of P.A. 177 of 2000 that requires qualified Michigan Townships to offer an "open space preservation" pattern of residential land development.

Planned Unit Development - Transfer of Development. A Planned Unit Development designed to implement the provisions of P.A. 228 of 2003 that specifically allow a Michigan Township to approve a PUD that provides open space that is non contiguous with the rest of the property contained in the planned unit development.

Public Utility. Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, telegraph, transportation, water, or sewer.

Restaurant. A building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment, where food may be taken outside of the building for consumption either on or off the premises.

Roadside Stand. A structure used or intended to be used solely by the householder, owner, or tenant of the parcel on which such structure is located for the sale of fresh farm products, the majority of which are raised or produced on the parcel.

Road, Private - A non-public road approved by the Township serving at least two separately owned lots or parcels which is operated and maintained by the owners or occupants of the lots it serves on behalf of the public using the road. The road shall meet the specifications of Article XVIII, Section 18.12 of this Ordinance, constructed to County Road Commission standards and be subject to a maintenance agreement approved by the Township Board.

Screening. The visual obstruction of a site so that the operations or buildings cannot be viewed by neighboring properties and/or people traveling on adjacent roadways. Usually this is accomplished by natural vegetation growth supplemented by additional plantings and sometimes combined with natural and/or man-made topographic obstructions to prevent visual observation of the site.

Sign. Any device designed to inform, identify, or advertise to persons not on the premises on which the sign is located, provided however that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers post box numbers, name of occupants of premises, or other identification of premises not having commercial connotations;
2. Flags and insignia of any government except when displayed in connection with commercial promotion;
3. Legal Notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

Sign, Abandoned. A Sign shall be deemed abandoned if:

1. It does not display a well-maintained message for a consecutive 60-day period after Township notification,
2. The owner of the Sign cannot be located at the Owner's last known address, as reflected in the records of the Department; or
3. A structure designed to support a Sign no longer supports the Sign for a period of 60 consecutive days after Township notification.

Sign, Directional. A sign on private property without commercial message to give directions such as entrance, exit, or street numbers.

Sign, Governmental. A Sign authorized by this municipality, a governmental agency, a governmental regulation, the State of Michigan, or the Federal Government, for street direction, destination, hazardous condition, information, or traffic control purposes.

Sign, Ground. A Sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.

Signs, Number and Surface Area. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to

form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

Sign, On-Site. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, Off-Site. A sign other than an on-site sign.

Sign Owner. A Person owning a Sign.

Sign, Projecting. A Sign affixed to any part of a building or structure which extends beyond the building or structure by more than twelve inches.

Sign, Residential Neighborhood Identification. A Sign at the entrance of a residential neighborhood identifying the neighborhood.

Sign, Roof. A Sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.

Sign, Special Event. A Sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, fruit harvesting, and other limited term events.

Sign, Wall. A Sign attached to, painted upon, placed against, or supported by the exterior surface of any building.

Special Land Use. A Special Land Use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as a Special Land Use, if specific provision for such Special Land Use is made in this ordinance.

Story. Is that part of a building included between the surface of one (1) floor and the surface of the next floor, or if no floor above, then the ceiling next above. A story, thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content is below the height level of the adjoining ground.

Story, Half. An uppermost story lying under a sloping roof. The usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and not used or designed or arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

Street. A public thoroughfare for vehicular traffic, which generally includes everything found within the right-of-way.

Street Line. The right-of-way line of a street or easement for ingress and egress.

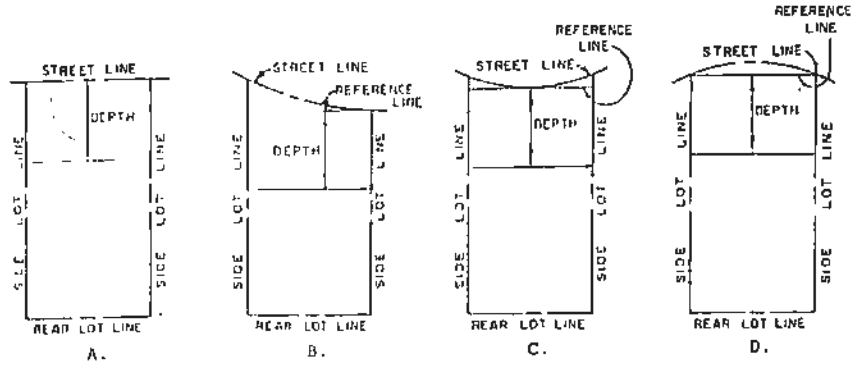
Township. Sodus Township.

Travel Trailer. A structure that is intended to be transported over the streets and highways either as a motor vehicle (motor home) or attached to or hauled by a motor vehicle and is designed for temporary use as sleeping quarters but does not satisfy the definitional criteria of a mobile home.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary practical difficulty or undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

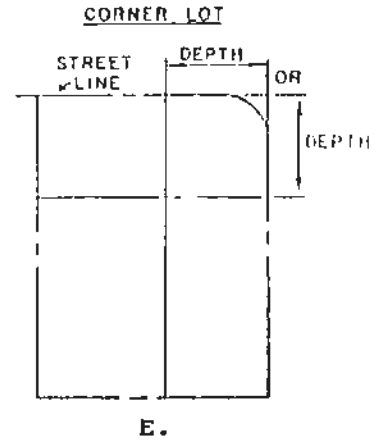
Yard. A required open space, between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this ordinance, provided however that fences, walls, poles, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front. A yard extending between side lot lines across the front of a lot adjoining a public street; or, in the case of water front lots, which shall be considered as through lots, a public street on one frontage and the water front on the other frontage.



In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.



Depth of required front yards shall generally be measured from the innermost point of the street line (right-of-way line) inward or a distance of the required front yard depth, as in diagrams A., B., C. and D. below.

In the case of rounded property corners at street intersections, reference points for measurements shall be placed where side lot lines would have met the street line if the corner were not rounded, as in diagram E. below. The front and rear lines of the front yard shall be parallel.

Yard, Depth. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

Yard, Side. A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards.

Yard, Rear. The yard extending across the rear of a lot between side lot lines.

Yard, Width. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

Zoning Administrator. See Building Official.

Zoning Compliance Permit. A permit for commencing construction issued by the Zoning Administrator in accordance with a plan, including an approved site plan, for construction that complies with all the provisions of this Zoning Ordinance.

**ARTICLE XXIX
SEVERABILITY**

Section 29.01 - Severance Clause

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE XXX
ADOPTION AND EFFECTIVE DATE OF ORDINANCE

Section 30.01 - Effective Date of Ordinance

This Ordinance shall become effective seven (7) days after publication of its adoption in a newspaper of general circulation in the Township following passage by the Township Board of the Township of Sodus, Berrien County, Michigan.

Made and passed by the Township Board of the Township of Sodus, Berrien Buren County, Michigan on this twenty-second day of July, 2008

1. Date of Publication of Notice of Public Hearing: May 19, 2008.
2. Date of Public Hearing by Planning Commission: June 9, 2008.
3. Date of Review by County Planning Commission: July 8, 2008.
4. Date of Adoption by Township Board: July 22, 2008.
5. Date of Publication of Notice of Adoption: July 29, 2008.
6. Date Ordinance Shall Take Effect: August 5, 2008.

Attest:

Michele Bennett
Township Supervisor

Virginia Palis
Township Clerk

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ORDINANCE ESTABLISHING SCHEDULE OF FEES
CHARGES AND EXPENSES AND COLLECTION PRO-
CEDURE PERTAINING TO THE ZONING ORDINANCE
OF SODUS TOWNSHIP, BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 2

An ordinance to establish a schedule of fees, charges, and expenses and to further establish a collection procedure for matters pertaining to the Zoning Ordinance of Sodus Township in accordance with Section 16 of said Zoning Ordinance.

THE TOWNSHIP BOARD OF SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section I: This Ordinance shall be known and cited as the Sodus Township Zoning Fee Schedule Ordinance.

Section II: Fees

1. Mobile Home permit – renewal for migrant housing \$ 3.00 per unit
2. Hearings before Board of Appeals at regularly scheduled meeting date \$ 350.00
3. Public Hearing before Township Planning Commission held at regularly scheduled meeting date \$ 350.00
4. Special meetings or special public hearings before Township Board, Township Planning Commission and/or Board of Appeals convened at request of applicant to be held at a time other than regularly scheduled meeting date \$ 350.00
5. The schedule of fees above set forth shall be posted in the Township Hall of Sodus Township, and shall be available upon request from the Township Building Inspector.

Section III: Payment of Fees

1. The fees required herein under Section II, Sub-section No. 1 shall be paid to the Township Building Inspector and shall be paid at the same time of the request for the required permit(s).

2. The fees required herein under Section II, Subsections 2, 3 and 4 shall be paid to the Township Clerk and shall be paid at the same time the application for said hearing is filed.

Section IV: Amendments to this Ordinance may be made by the Sodus Township Board by resolution and said amendments shall be posted in the Township Hall and shall be available from the Township Building Inspector.

Section V: Effective date

This Ordinance shall take effect immediately after publication hereof.

The foregoing Sodus Township Zoning Fee Schedule Ordinance was adopted at a regular meeting of the Sodus Township Board held on the 27th day of September, 1977.

Clarence Steinke, Supervisor

Attest:

Virginia Palis, Township Clerk

October 1, 1977

SODUS TOWNSHIP
ORDINANCE NO. 3

An Ordinance to prevent, reduce or eliminate blight, blighting factors or causes of blight within Sodus Township, Berrien County, Michigan; to provide for the enforcement hereof; and to provide penalties for the violation hereof, pursuant to the enacting authority therefore provided by Act 344 of the Public Acts of 1945 as amended.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1. Definitions

(a) Disabled Motor Vehicle. A disabled motor vehicle shall mean any vehicle which is incapable of being self propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

(b) Junk. The term "junk" shall include, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood; metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use, including all forms of trash, rubbish, or debris not otherwise classified herein.

(c) Blighted Structure. The term "blighted structure" shall include, without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or which is in violation of the Township Fire Chief, or which has been condemned by the Township, County, or State Health Officials.

(d) Building Materials. The term "building materials" shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

(e) Person. The term "person" shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, by equally liable as principals.

Section 2. It is hereby determined that the storage or accumulation of junk, disabled motor vehicles, building materials, and the maintenance of blighted structures upon any private property within the Township of Sodus tends to result in blighted and deteriorated neighborhoods,

the spread of vermin and disease, the increase of criminal activity, and therefore is contrary to the public peace, health, safety, and general welfare of the community.

Section 3. Disabled Motor Vehicles

(a) Disabled motor vehicles shall not be permitted in the rights-of-way of the streets, alleys, or highways within the Township; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(b) Disabled motor vehicles shall not be permitted in a front yard as defined by the zoning ordinance of the Township; provided however, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(c) One disabled motor vehicle may be permitted in a side or rear yard of a residential, commercial, or industrial lot; provided that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and incidental thereto parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be scavenged or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes.

(d) Storage, service, and repair of a disabled motor vehicle which is conducted entirely within the confines of any accessory garage shall be permitted; provided, that such vehicle is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the Township.

(e) Where permitted; storage, repair and servicing of disabled motor vehicles not authorized herein, and the tearing down, stripping, or junking of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted, or licensed under other ordinances of the Township, and in accordance therewith.

Section 4. Accumulation or Storage of Junk.

It shall be unlawful for any person to store, or to permit the storage or accumulation of junk, trash, rubbish or other debris on any property in the Township without a landfill permit except for the following purposes:

(i) Domestic junk or refuse stored in a manner as not to create a nuisance for a period not to exceed fifteen (15) days.

(ii) Junk on the premises of a properly zoned, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk.

Section 5. Maintenance of Blighted Structures

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, out-building, factory, shop, store, or warehouse except in the following circumstances:

(i) In the case of blighted or vacant structures as defined herein which have not been determined a fire hazard by the Township Fire Chief or condemned by a public Health Official, the same may be kept securely locked, boarded-up and otherwise protected to prevent entrance thereto by unauthorized persons provided such securing and boarding-up is done in accordance with the Sodus Township building code.

(ii) Blighted or vacant structures which are in the course of construction in accordance with a valid building permit issued by the Township of Sodus provided that the construction is completed within a reasonable time.

Section 6. Storage and Accumulation of Building Materials

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on said property or except when such building materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the Township of Sodus, and unless such construction is completed within a reasonable time.

Section 7. Enforcement

It shall be the duty of the duly authorized Police Department of Sodus Township to enforce this ordinance; provided however, the Chief Building Inspector, Zoning Enforcement Officer, Fire Chief, Health Officer, and Supervisor of the Township shall assist and cooperate in such enforcement; and further provided that the person determined to be in violation of this ordinance shall be given 48 hours prior notice, served personally upon him or posted in a conspicuous place upon the property wherein the violation occurs, which notice shall set forth in detail the nature and extent of the violation and further notifying the said person that enforcement action pursuant to the penal provisions of this ordinance will be taken if said violation is not corrected within the 48 hour time period.

Section 8. Penalty

Any person violating any of the provisions of this ordinance shall be liable to a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment in the County Jail for not more than Ninety (90) days or both such fine and imprisonment. Each day that a violation of this ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section provided no person shall be imprisoned for a single but continuing violation of this ordinance for a period of longer than Ninety (90) days.

A. In addition to the imposition of the foregoing fines and penalties, the violation of the provisions of this ordinance is deemed to be a nuisance and any person, firm or corporation who refuses or neglects to comply with an order of the

Township Board, the Township Supervisor, the Township Building and Zoning Inspector or Enforcement Officer, issued under this ordinance, then said Board may cause said nuisance to be removed from the premises, impounded, destroyed and/or sold, and the cost thereof assessed against the owner or occupant of the premises upon which the same is locate. If the owner or occupant of such premises shall refuse upon demand to pay such expenses so incurred, such sum shall be assessed against the real estate involved and shall be collected and treated in the same manner as are taxes assessed under the general laws of the State of Michigan.

B. In the event of a sale of any such material or equipment by the Township, the proceeds from such sale shall be first used to reimburse the Township for the costs incurred therein and the balance, if any, shall be returned to the owner or occupant of the real estate involved as the case may be.

Section 9.

Should any section, clause, or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portions of such section of this ordinance or any part thereof other than the part so declared to be invalid.

Section 10.

This ordinance shall be effective thirty (30) days after passage and publishing.

ADOPTED: August 28, 1979.

Clarence Steinke
Township Supervisor

Virginia Palis
Township Clerk

AMENDMENT 8A AND 8B ADOPTED
JUNE 26, 1990

Robert Tillstrom
Township Supervisor

Virginia Palis
Township Clerk

11-19-0005-0025-00-4

SODUS TOWNSHIP
ORDINANCE NO. 3

An Ordinance to prevent, reduce or eliminate blight, blighting factors or causes of blight within Sodus Township, Berrien County, Michigan; to provide for the enforcement hereof; and to provide penalties for the violation hereof, pursuant to the enacting authority therefore provided by Act 344 of the Public Acts of 1945 as amended.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1. Definitions

(a) Disabled Motor Vehicle. A disabled motor vehicle shall mean any vehicle which is incapable of being self propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

(b) Junk. The term "junk" shall include, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood; metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use, including all forms of trash, rubbish, or debris not otherwise classified herein.

(c) Blighted Structure. The term "blighted structure" shall include, without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or which is in violation of the Township Fire Chief, or which has been condemned by the Township, County, or State Health Officials.

(d) Building Materials. The term "building materials" shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

(e) Person. The term "person" shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

Section 2. It is hereby determined that the storage or accumulation of junk, disabled motor vehicles, building materials, and the maintenance of blighted structures upon any private property within the Township of Sodus tends to result in blighted and deteriorated neighborhoods,

the spread of vermin and disease, the increase of criminal activity, and therefore is contrary to the public peace, health, safety, and general welfare of the community.

Section 3. Disabled Motor Vehicles

(a) Disabled motor vehicles shall not be permitted in the rights-of-way of the streets, alleys, or highways within the Township; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(b) Disabled motor vehicles shall not be permitted in a front yard as defined by the zoning ordinance of the Township; provided however, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(c) One disabled motor vehicle may be permitted in a side or rear yard of a residential, commercial, or industrial lot; provided that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and incidental thereto parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be scavenged or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes.

(d) Storage, service, and repair of a disabled motor vehicle which is conducted entirely within the confines of any accessory garage shall be permitted; provided, that such vehicle is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the Township.

(e) Where permitted; storage, repair and servicing of disabled motor vehicles not authorized herein, and the tearing down, stripping, or junking of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted, or licensed under other ordinances of the Township, and in accordance therewith.

Section 4. Accumulation or Storage of Junk.

It shall be unlawful for any person to store, or to permit the storage or accumulation of junk, trash, rubbish or other debris on any property in the Township without a landfill permit except for the following purposes:

(i) Domestic junk or refuse stored in a manner as not to create a nuisance for a period not to exceed fifteen (15) days.

(ii) Junk on the premises of a properly zoned, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk.

Section 5. Maintenance of Blighted Structures

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, out-building, factory, shop, store, or warehouse except in the following circumstances:

(i) In the case of blighted or vacant structures as defined herein which have not been determined a fire hazard by the Township Fire Chief or condemned by a public Health Official, the same may be kept securely locked, boarded-up and otherwise protected to prevent entrance thereto by unauthorized persons provided such securing and boarding-up is done in accordance with the Sodus Township building code.

(ii) Blighted or vacant structures which are in the course of construction in accordance with a valid building permit issued by the Township of Sodus provided that the construction is completed within a reasonable time.

Section 6. Storage and Accumulation of Building Materials

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on said property or except when such building materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the Township of Sodus, and unless such construction is completed within a reasonable time.

Section 7. Enforcement

It shall be the duty of the duly authorized Police Department of Sodus Township to enforce this ordinance; provided however, the Chief Building Inspector, Zoning Enforcement Officer, Fire Chief, Health Officer, and Supervisor of the Township shall assist and cooperate in such enforcement; and further provided that the person determined to be in violation of this ordinance shall be given 48 hours prior notice, served personally upon him or posted in a conspicuous place upon the property wherein the violation occurs, which notice shall set forth in detail the nature and extent of the violation and further notifying the said person that enforcement action pursuant to the penal provisions of this ordinance will be taken if said violation is not corrected within the 48 hour time period.

Section 8. Penalty

Any person violating any of the provisions of this ordinance shall be liable to a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment in the County Jail for not more than Ninety (90) days or both such fine and imprisonment. Each day that a violation of this ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section provided no person shall be imprisoned for a single but continuing violation of this ordinance for a period of longer than Ninety (90) days.

A. In addition to the imposition of the foregoing fines and penalties, the violation of the provisions of this ordinance is deemed to be a nuisance and any person, firm or corporation who refuses or neglects to comply with an order of the

Township Board, the Township Supervisor, the Township Building and Zoning Inspector or Enforcement Officer, issued under this ordinance, then said Board may cause said nuisance to be removed from the premises, impounded, destroyed and/or sold, and the cost thereof assessed against the owner or occupant of the premises upon which the same is locate. If the owner or occupant of such premises shall refuse upon demand to pay such expenses so incurred, such sum shall be assessed against the real estate involved and shall be collected and treated in the same manner as are taxes assessed under the general laws of the State of Michigan.

B. In the event of a sale of any such material or equipment by the Township, the proceeds from such sale shall be first used to reimburse the Township for the costs incurred therein and the balance, if any, shall be returned to the owner or occupant of the real estate involved as the case may be.

Section 9.

Should any section, clause, or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portions of such section of this ordinance or any part thereof other than the part so declared to be invalid.

Section 10.

This ordinance shall be effective thirty (30) days after passage and publishing.

ADOPTED: August 28, 1979.

Clarence Steinke
Township Supervisor

Virginia Palis
Township Clerk

AMENDMENT 8A AND 8B ADOPTED
JUNE 26, 1990

Robert Tillstrom
Township Supervisor

Virginia Palis
Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 4

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “National Electrical Code”, 1984 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collections of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “National Electrical Code”, 1984 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full ofrect and effect, from after thirty (30) days from passage and publishing.

Clarence Steinke
Sodus Township Supervisor

ATTEST:

Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich		
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the _____ day of _____, 1984.

ORDINANCE FOR ADOPTION OF THE
UNIFORM BUILDING CODE AND
UNIFORM BUILDING CODE STANDARDS

ORDINANCE NO. 5

An ordinance of the Township of Sodus regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all building or structures in the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing Ordinance No. 2 of the Township of Sodus and all other ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "Uniform Building Code", including Appendix Chapters 1, 7, 11, 12, 23, 32, 35, 38, 49, 51, 53, 55, 57 and 70, 1982 edition, and the "Uniform Building Code Standards," 1982 edition, published by the International Conference of Building Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, construction, enlargement, alteration repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "Uniform Building Code," 1982 edition, and the "Uniform Building Code Standards," 1982 edition, published by the International Conference of Building Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: That Ordinance No. 2 of the Township of Sodus, adopting a prior edition of the "Uniform Building Code," and all other ordinances or part of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect and effect, from after Thirty (30) days from passage and publishing.

DATED:
July 24, 1984

CLARENCE STEINKE
Sodus Township Supervisor

ATTEST:

Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich (absent)		
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and the true copy of same was filed with the Berrien County Clerk on the ____ day of _____, 1984.

Virginia Palis, Township Clerk
UNIFORM BUILDING CODE – AMENDMENT

IT IS HEREBY ORDAINED BY SODUS TOWNSHIP, BERRIEN COUNTY,
MICHIGAN:

The Uniform Building Code previously adopted by Sodus
Township on the 24 day of July, 1984, is hereby amended to adopt and include
all amendments adopted and published by the International Conference of Building
Officials to and including be effective on the 28 day of July, 1988.

Virginia Palis, Sodus Township Clerk

ORDINANCE FOR ADOPTION OF THE
UNIFORM MECHANICAL CODE

ORDINANCE NO. 6

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "Uniform Mechanical Code", including Appendix A, B, C, and D, 1982 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus providing for issuance of permits and collection of fees, therefore; and each and all of the regulations, provisions, conditions and terms of such "Uniform Mechanical Code", 1982 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

DATED:
July 24, 1984

CLARENCE STEINKE
Sodus Township Supervisor

ATTEST

Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	X	
Palis	X	
Schroeder	X	
Froehlich	absent	
Collins	X	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the ____ day of _____, 1984

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL PLUMBING CODE

ORDINANCE NO. 7

An ordinance of the Township of Sodus regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "BOCA Basic National Plumbing Code", 1984 edition, including Appendix Chapters, A, B, C, D and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "BOCA Basic National Plumbing Code", 1984 edition, and the published by the Building Officials and Code Administrators International, Inc., on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance

No. 6, adopting the "Uniform mechanical Code", which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 6 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

DATED:
July 24, 1984

CLARENCE STEINKE
Sodus Township Supervisor

ATTEST

Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich	absent	
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the _____ day of _____, 1984

Virginia Palis, Township Clerk

ORDINANCE TO AMEND ORDINANCE NO. 1
SODUS TOWNSHIP ZONING ORDINANCE

ORDINANCE NO. 8

An ordinance of the Township of Sodus adopting a revised and reprinted copy of the Sodus Township Zoning Ordinance as amended through November 20, 1983 including all amendments to said Ordinance from August 26, 1980 through November 30, 1983.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain document, a copy of which is on file in the office of the Township Clerk being marked and designated as "Sodus Township Zoning Ordinance", as amended November 30, 1983 including amendments from August 26, 1980 through November 30, 1983 be and the same is hereby adopted as the Sodus Township Zoning Ordinance and further that all amendments including the following are hereby adopted, proper public hearings having been previously held; amendments changing the square floor area first story for a single family dwelling one-story in height from 1,000 square feet to 768 square feet being Section 5.11 of Schedule District Regulations; including the addition of M.A. Industrial Agricultural District being Section 5.07 (A) Schedule District Regulations; including the rezoning of the following parcels of property:

- a. A portion of property 265 West of the centerline of Pipestone Road from RIA to C2 Commercial as more particularly set forth in the Official Township Zoning Map;
- b. A parcel of property being 14.4 acres located in the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 14, Town 5 South, Range 19 West from Agricultural to C2 Commercial as more particularly set forth in the Official Township Zoning Map;
- c. The rezoning of a parcel of property located in Section 3, Town 5 South, range 18 West approximately 25 acres in size and bearing tax code number: 11-19-0003-0027-02-7 from Agricultural to M2 Industrial all as more fully set forth in the Sodus Township Official Zoning Map;
- d. The rezoning of parcels 11-19-0101-005-0-7, 11-19-0101-0005-01-5, and 12 acres of 11-19-0101-0009-99-2 from Agricultural to M.A. Industrial Agricultural.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That is ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

CLARENCE STEINKE
Sodus Township Supervisor

DATED:
July 24, 1984

ATTEST:

Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich	absent	
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the ____ day of _____, 1984.

Virginia Palis, Township Clerk

AN ORDINANCE GRANTING A FRANCHISE TO LAKELAND
CABLEVISION, ITS SUCCESSORS AND ASSIGNS, TO OWN,
OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE
TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN
ORDINANCE NO. 9

THE TOWNSHIP OF SODUS GRANTS:

Section 1: This ordinance shall be known and may be known and may be cited as the Sodus Township Cable Television Ordinance

Section 2: Definitions – For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number, include the Plural number. The work “shall” is always mandatory and not merely directory.

- (1) “Township” is the grantee of rights under this Ordinance awarding a franchise and is known as Lakeland Cablevision, 4771 Niles Avenue, St. Joseph, Michigan 49085
- (2) “Company” is the grantee of rights under this Ordinance awarding a franchise and is known as Lakeland Cablevision, 4771 Niles Avenue, St. Joseph, Michigan 49085
- (3) “Person” is any person, firm partnership, association, corporation, company or organization of any kind.
- (4) “System” shall mean the entire installation located in the Township of Sodus.
- (5) “Regular Subscriber Service” shall mean the distribution of broad-cast television and radio, public access, educational access, and government access signals.

Section 3. Grant of Authority – The Sodus Township Board of Trustees, after due consideration and public hearing at its regular Board meeting October 13, 1987, has provided an opportunity for public participation and being satisfied as to the Company’s legal, technical character and financial and other qualifications, and the adequacy and feasibility of the Company’s construction arrangements, hereby grants to the Company a non-exclusive franchise, right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Township; poles, wires, cables, underground conduit, manholes, and television conductors and fixtures necessary for the maintenance and operation of the Township of a Cable Television System for the purpose of distributing television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purpose herein set forth.

Section 4: Liability and Indemnification – The Company shall pay and by its acceptance of this franchise the Company expressly agrees that it will pay all damages and penalties which the Township may legally be required to pay as a result of the Company's negligence in the installation, operation or maintenance of the Cable Television system authorized herein. The Township shall notify the Company's representative within fifteen (15) days after the presentation of any claims or demands to the Township, either by suit or otherwise, made against the Township on account of any negligence or contract as aforesaid on the part of the Company. The Company shall carry and pay the cost of the following liability insurance in support of its undertaking to hold the Township harmless from loss sustained by either on account of the negligence of the Company, in at least the amounts indicated below, for injury to or death of persons and injury to or destruction of property:

- (1) \$500,000.00 for property damage to any one person.
- (2) \$500,000.00 for property damage to any one accident.
- (3) \$500,000.00 for personal injury to any one person.
- (4) \$500,000.00 for personal injury in any one accident.

The Company shall comply with all the provisions of the Workmen's Compensation Law of Michigan.

Section 5: Subscriber Complaints – In order to resolve complaints regarding cable television operations, the Company shall maintain a local office presently located at 4771 Niles Road, St. Joseph, Michigan 49085, or agent so that cable television maintenance service shall be available to subscribers upon telephone request between the hours of 9:00 A.M. and 6:00 P.M. of each day that the Company is transmitting signals to subscribers. The Company shall attempt to resolve any complaints concerning its cable television operation as expeditiously as possible. Should a subscriber have an un resolved complaint regarding quality of service, equipment malfunction, or similar matters, the subscriber shall be entitled to file his complaint with the Township Clerk, who shall have primary responsibility and authority for the continuing administration of the franchise and the procedures for resolving complaints. The Clerk may also demand that a Company representative meet with a representative of the Township Board to discuss and resolve such complaint, such meeting to be held within thirty (30) days after demand therefore. The Company reserves the right to make final determination of the disputed claim under this Section. The Company shall notify each subscriber, at the time of initial subscription to the service of the Company, of the procedures for reporting and resolving such complaints.

Section 6: Condition on road occupancy

(1) The Company may enter into one or more contracts with any electric utility, telephone company or the owner or lessee of any poles or posts located within the Township to whatever extent such contract or contracts may be expedient and of advantage to the Company in furnishing the Service covered by this Franchise to its subscribers.

(2) The Company system, poles, wires and appurtenances shall be located, erected and maintained so that none of it shall endanger or interfere with the lives of persons, or interfere with any improvements the Township may deem proper to make, or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, easements or public property.

Section 7: Approval of Transfer – The Company shall not sell or transfer its system to another, nor transfer any rights under this Franchise to another without approval by the Township, provided that no sale or transfer shall be effective until the vendee, assignee or lessee has filed with the appropriate office of the Township an instrument duly executed, reciting the fact of such sale, assignment or lessee, accepting the terms of this franchise and agreeing to perform all conditions thereof. The system shall not be sold or transferred by the Company to any outside interest except upon written notice to the Township not less than ninety (90) days before such transfer of sale, and such approval or disapproval by the Township shall not be unreasonably withheld and failure to act within sixty (60) days from receipt of the notice will be evidence of approval. The provisions of this Section 7 shall not apply to the collateral assignment of this Franchise for financing purposes.

Section 8: Payments to the Township

(1) The Company shall, during each year of operation under this Franchise, pay to the Township of Sodus, two (2%) per cent of the annual gross subscriber receipts received by the Company for cable television services rendered to subscribers located within the Township and submit an annual report showing the Company's annual gross subscriber receipts during the preceding year and such other information as the Township shall reasonably request with respect to properties and expenses related to the Company's services within the Township for such period.

(2) Annual gross subscriber receipts shall mean all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by the Company from the supplying of regular subscribers service, that is monthly service sold to all the Company's subscribers, but shall not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenue, nor shall it include charges, to each subscriber for installation, connection, or relocation, or any other income derived from the cable television system. Provider however, that the term "Gross Annual Subscriber Receipts" shall not include any taxes on the services furnished by the Company which are or may be imposed directly upon any subscriber by any Township, State or other government unit and collected by the Company for such government unit.

Section 9: Records and Reports – The company shall keep full, true, accurate and current books of account reflecting its investment and its operations under this Franchise, which books and records shall be kept and maintained by the Company and shall be made available for inspection and copying by the Chairman of the Finance Committee of the Township of Sodus, or his authorized representative, at all reasonable times.

Section 10: Rates – The Company's initial monthly rate for regular subscriber service rendered to residential subscribers shall be \$13.95. Installation and service charges for additional outlets shall be at the discretion of the Company.

Section 11: Procedures – The Company may at any time and from time to time change its monthly rates: provided that the Company shall be required to give the Township Board written notice of any proposed rate increase at least sixty (60) days prior to the proposed effective date of such rate increase.

The Company may impose a late charge not to exceed \$1.00 per month for each invoice not paid within thirty (30) days after mailing, to cover the extra expense involved in handling delinquent payments.

Section 12: Free Connection and Service – Upon request, the Company shall furnish free of charge, outside connections and service to hospitals within the township and to all public and parochial schools located within the Township and to Township buildings, when other connections are being made within the particular areas of any such hospitals, schools or public buildings; provided however, any and all inside wiring or work shall be done at the expense of the hospital, school, or Township, as the case may be, and provided that a service cable has previously been installed in reasonable proximity to such hospital, school or public building.

Section 13: Franchise Term – The franchise granted the Company herein shall terminate fifteen (15) years from date of grant, and may be renewed for a successive fifteen (15) year term under the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the Township Board and as are consistent with the requirements of Rule 76.31 (a) of the Federal Communications Commission. The Company shall give not later than ninety (90) days prior to the end of the original term, notice of renewal to the Township, and if the Township fails to respond upon expiration of the ninety (90) days, then said Franchise shall be considered renewed for a successive fifteen (15) year term.

Section 14: Commencement of Construction – Upon grant of this Franchise to construct and maintain a cable television system in the Township of Sodus, the Company may enter into contracts with public utilities, telephone company or other for the use of poles and posts necessary for proper installation of the system, obtain right of way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a Township, County, State or Federal Agency may require. In the construction, installation and maintenance of its system, the Company will use steel, cable, and electronic devices, all of specialized and advanced design and type which should be subject to the approval of the Township Engineer, and in the operation of its system, the Company will employ personnel with training, skill and experience in electronics and communications. However, neither material nor personnel of this sort may be available to the Company for its system in the event of a war or other similar national emergency.

Section 15: Construction Schedule – No later than December 31, 1988 (as to Phase 1) and no later than December 31, 1989 (as to Phase 2) as shown on the attached map, the Company shall extend energized trunk cable to the extent economically feasible. Provided, however, that the Company shall only be required to extend trunk cable to those other sections of its franchise area which meets the general density standards in excess of ten (10) single household subscriber connections per one thousand fifty-six (1056) strand feet of cable or fifty (50) single household subscriber connections per stand mile of cable. Measurement of the general density standard for service to any area added to the Company's existing franchise area during the term of the franchise shall be made from the closest existing point of the Company's cable television system.

(1) Whenever the Company shall receive a request for service from at least ten such subscribers within 1056 feet of its distribution cable, it shall extend its system to such subscribers at no cost to the subscriber for system extension other than the usual connection fees for all subscribers, provided that such extension is technically and physically feasible. The 1056 feet shall be measured in extension length of the Company's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's residence or premise.

(2) No person, firm or corporation in the Company's franchise area shall be arbitrarily refused service. However, for unusual circumstances, such as requirements for underground cable, or more than 200 feet of distance from distribution cable to connection of service to subscribers, or a density of less than ten single household subscriber connections per 1056 feet of strand plant, in order that existing subscribers shall not be unfairly burdened, service may be made available on the basis of an installation or connection payment by the prospective subscriber(s) to the Company, to reimburse the Company for its costs of materials, labor and easements.

(3) If the Company does not, of its own accord, proceed to secure the permits and build line extension at such time as the franchise area reaches the required density, the Township Board may request the Company to build a plant and deliver service, however, the Company may be permitted to show cause why such extension or expansion should not or cannot be constructed.

Section 16: Modification of FCC Rules – Consistent with the requirements of Rule 76.31 (a) (6) of the Federal Communications Commission, any modification of Rule 76.31 resulting from amendment thereto by the Federal Communications Commission shall to the extent applicable be considered as a part of this franchise as of the effective date of the amendment made by the FCC and shall be incorporated in such franchise by specific amendments thereto by the lawful action of the Township Board within one (1) year from the effective date of the Federal Communications Commission's amendment or at the time of renewal of this franchise, whichever occurs first.

Section 17: Publication Costs – The Company shall assume the costs of publication of this franchise as such publication is required by law. A bill for publication costs shall be presented to the Company by the appropriate Township officials which shall be paid at that time by the Company.

Section 18: Activities Prohibited – The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the systems interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Township.

Section 19: Limited Purpose – This franchise is granted by the Township Board of the Township of Sodus, to the Company purely for the purpose of using easements, streets, and highways of the Township to erect and construct the Company's system and is not intended to convey any copyright or patent privileges whatsoever.

Section 20: Termination – This Ordinance may be declared null and void and the franchise terminated, and the rights and privileges hereby granted forfeited in case the Company, its successors and assigns, shall refuse or neglect to perform the conditions hereunder specified on its part to be performed. Provided however, the Township shall give the Company written notice of any default on the part of the Company and the Company shall have a reasonable time to correct such default prior to any termination of the Company's franchise.

Section 21: Bond – The Company agrees to execute and deliver to the Township upon demand by the Township, a good and sufficient bond, with corporate surety, in a sum to be agreed upon by the parties, conditioned upon the Company's obligation to remove all poles installed by the Company located in the Township upon termination of this franchise.

Section 22: Separability – If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity for the remaining portions hereof.

Section 23: Effective Date – This Ordinance is hereby declared to have been approved by the Township of Sodus, County of Berrien, State of Michigan, at a regular meeting of the Township Board held on October 13, 1987, and shall take effect and be in force from and after the date of publication.

Motion to adopt by _____

Motion supported by _____

Ayes _____ Nays _____ Absentions _____ Absent _____

Date approved by Township Board _____

Clarence Steinke, Supervisor

Virginia Palis, Clerk

**SODUS TOWNSHIP CEMETERY ORDINANCE
ORDINANCE NO. 10**

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN. TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH:

TOWNSHIP OF SODUS, COUNTY OF BERRIEN, MICHIGAN, ORDAINS:

Section 1: TITLE

This Ordinance shall be known and cited as the Sodus Township Cemetery Ordinance.

Section 2: DEFINITIONS

- A. A "cemetery lot" shall consist of burial spaces *in a Township cemetery* sufficient to accommodate from one to five burial spaces.
- B. *A "cemetery plot" shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person.*
- C. A 'burial space' shall consist of a land area 48 inches wide and *10* feet in length.
- D. An infant of up to one year or stillborn may be placed *at the head of the plot* of an adult burial plot, or in areas set aside specifically for such burials, if available.
- E. *A "resident" is a person who lives in the Township of Sodus permanently or on a long-term basis.*
- F. *A "non-resident" is a person who lives outside the Township of Sodus.*
- G. *A "resident" who beyond their control is forced to move and reside in a nursing home or assisted living facility outside of Sodus Township will still maintain resident status for burial.*

Section 3: SALE OF LOTS OR BURIAL SPACES OR PLOTS

- A. Residential cemetery lots or burial spaces shall be sold only to residents of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth. The Township Clerk, however, is hereby granted the authority to sell non-residential burial spaces and to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred therein.
- B. All such sales shall be made on a form approved by the Township Board which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by the Township Clerk.

- C. Residential burial rights may only be transferred to those persons eligible to be original residential purchasers of cemetery lots or burial spaces within the Township. Transfers to non-residents of burial spaces must pay the additional fee based upon the current price. The transfer may be affected only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Clerk, approved by said Clerk, and entered upon the official record of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit to the assignee and shall cancel and terminate upon such records, the original permit thus assigned.

Section 4: FEE SCHEDULES

- A. Fee Schedules may be obtained from the Township Clerk. The Township Board by resolution may periodically alter the fee schedule for cemetery maintenance and acquisition.
- B. The opening and closing of any burial space *or niche*, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by Resolution of the Township Board, payable to the Township.
- C. No burial spaces *or niches* shall be opened and closed except under the direction and control of the cemetery sexton. This provision shall not apply to proceedings for the *disinterment* of bodies and remains, which matters are under the supervision of the local health department.

Section 5: MARKERS OR MEMORIALS

- A. All markers or memorials must be of stone or other equally durable composition.
- B. Any large upright monuments must be located upon a suitable foundation to maintain the same in an erect position.
- C. No mausoleum type memorials are allowed.
- D. Only one above ground monument, marker or memorial shall be permitted per burial space.
- E. The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the Sexton at cost to the owner of the burial right.

Section 6: INTERMENT REGULATIONS

- A. Only one person may be buried in a burial space except for an adult and infant or two children buried at the same time. *One body cremains may also be buried in a cemetery plot along with a deceased person.*
- B. Not less than 36 hour notice shall be given in advance of any time of any funeral to allow for the opening of the burial space.
- C. The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery sexton or the Township Clerk prior to interment. Where such 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 burial space is an authorized and appropriate one before any interments commenced or completed.

- D. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.
- E. Only below ground interment will be allowed, *except for cremations in a columbarium.*

Section 7: DISINTERMENTS

- A. *No disinterment or the digging up of an occupied grave or cremains shall occur without a Township disinterment permit. No disinterment permit shall be issued until the Township disinterment application form has been fully completed and filed with the Township clerk.*
- B. *No disinterment or digging up of an occupied grave shall occur until and unless any and all the permits, licenses and written authorizations required by for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the Township.*
- C. *It is the authority of the Township board to refuse to allow a disinterment, if the disinterment of an occupied grave is not done pursuant to a court order or does not have a reasonable basis.*

Section 8: CREMAINS AND COLUMBARIUM

- A. *Cremains may be buried in a container approved by the Township in a cemetery plot or in a columbarium that has been installed by the Township within a Township cemetery.*
- B. *No cremains shall be scattered or dispersed within a Township cemetery.*
- C. *Only two cremains are allowed per columbarium niche.*
- D. *Only etched font (approved by the Township- no plaques) and up to two emblems per niche are allowed on the granite facing of the niche. For more details and current fees please contact the Township clerk or sexton.*
- E. *All flowers must be placed in a common vase in front of the columbarium and shall be removed or discarded by cemetery sexton upon deterioration.*
- F. *Cemetery sexton is in charge of maintaining the columbarium and is the only one allowed to Open/Close the niche.*
- G. *Questions pertaining to the columbarium please contact the Township clerk or sexton.*

Section 9: GROUND MAINTENANCE

- A. No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the cemetery sexton or the Township Clerk.

- B. No shrubs or trees of any type shall be planted without the approval of the cemetery sexton or the Township Clerk. Any of the foregoing items planted without such approval may be removed by the Township or the cemetery 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 gardening apparatus are prohibited.
- E. The Cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become unsightly, a source of litter, or a maintenance problem.
- F. Surfaces other than earth or sod are prohibited.
- G. All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.
- H. *No strings of lights allowed. Solar or decorative solar lights shall be limited to a maximum of two per gravesite and placed in alignment with the headstone.*
- I. *No glass containers or items are allowed.*
- J. *Only Sexton is authorized to use weed control substance as deemed necessary.*
- K. *All graves shall be maintained in an orderly and neat appearing manner within the confines of the burial space involved.*
- L. *Any decorative item or planting in question please contact the Sexton or Township Clerk.*

Section 10: DISCLAIMER OF TOWNSHIP LIABILITY AND RESPONSIBLITY

Every person who enters, remains in and travels within a Township cemetery does so at their own risk. The Township is not responsible for any injury, accident or other calamity that might occur to any person present in a Township cemetery. Furthermore, 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, or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, or similar right, any headstone, monument, or similar items, and matter related to the cemetery as to the Township Sexton and any Township employee, officer, official, or agent.

Section 11: FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES

Cemetery lots or burial spaces sold after the effective date of the Ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:

- A. Notice shall be sent by the Township Clerk by First Class mail to the last known address of the last owner of record informing him of the expiration of the forty (40) year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of the within notice his desire to retain said burial rights.
- B. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces or his heirs or legal representative within sixty (60) days from the date mailing of said notice.

Section 12: REPURCHASE OF LOTS OR BURIAL SPACES

The Township will repurchase any cemetery lot or burial space from the owner for the original price paid the Township upon written request of said owner or his legal heirs or representatives.

Section 13: RECORDS

The Township Clerk shall maintain records concerning all burials, and any perpetual care fund, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

Section 14: VAULT

All burials shall be within a standard concrete vault or other State approved material, installed or constructed in each burial space before interment.

Section 15: CEMETERY HOURS

Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed during the hours from 10 p.m. until 6 a.m. the next morning. During those hours, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a cemetery is closed shall not apply to the Township sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 16: PENALTIES

Any person, firm or corporation who violates any of the provisions of the within Ordinance shall be guilty of a *civil infraction* and shall be subject to a fine of up to \$100.00. *For* each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

Section 17: INTERPRETATION/APEALS TO THE TOWNSHIP BOARD

- A. *The Township Board shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Ordinance and any rule or regulation adopted pursuant to this Ordinance, as well as their applicability. The Township Board (or its designee) is also authorized to waive*

application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.

- B.** *Any party aggrieved by any interpretation or decision made by the Township Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a cemetery plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Township shall give the aggrieved party who filed the written appeal with the Township at least ten (10) days prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Township Board shall be final.*
- C.** *The Township Board may set a fee or fees for any such appeal from time to time by resolution.*

Section 18: SEVERABILITY

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

Section 19: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by resolution by Township Board Member, Dave Chandler, and was supported by Township Board Member, Ken Peters, and the vote being as follows:

Ayes: Michelle Bennett, David Chandler, Cheryl Andres, Karen Morgan, Ken Peters

Nays:

ORDINANCE DECLARED ADOPTED.

Michele Bennett, Sodus Township Supervisor

Cheryl Andres, Sodus Township Clerk

CERTIFICATION

I, *Cheryl Andres*, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the _____; that a notice of said adoption giving the regulatory effects of same was published in the *Journal Era* on the _____; and that true and full copy of same is filed in the Sodus Township Clerk's office.

Cheryl Andres, Sodus Township Clerk

1991 EDITION OF BUILDING CODE
ORDINANCE NO. 11

An ordinance of Sodus Township adopting the 1991 edition of the Uniform Building Code and the 1991 edition of the Uniform Building Code Standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township; providing for the issuance of permits and collection of fees therefore; providing for penalties for the violation thereof, repealing Ordinance No. 5 of Sodus Township and all other ordinances and parts of the ordinances in conflict therewith.

The Township Board of Sodus Township does ordain as follows:

Section 1. That certain documents, one (1) copy of which is on file and is open for inspection of the public in the office of the Township Clerk of Sodus Township, being marked and designated as:

Uniform Building Code, 1991 Edition, published by the International Conference of Building Officials, including Appendix Chapters 1 Division I, Chapter 11, 12, 23 Division I & Division IV, 26, 29, 32, 49, 53, 55.

Uniform Building Code Standards, 1991 Edition, published by the International Conference of Building Officials.

be and the same are hereby adopted as the code of Sodus Township for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such Uniform Building Code, 1991 Edition, and Uniform Building Code Standards, 1991 Edition, published by the International Conference of Building Officials which are on file in the office of Sodus Township are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

Section 3. That Ordinance No. 11 of Sodus Township entitled and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Township Board hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases by declared unconstitutional.

Section 5. That the Township Clerk is hereby ordered and directed to cause this ordinance to be published.

Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

DATED: APRIL 13, 1993

RONALD L. HAUCH
SODUS TOWNSHIP SUPERVISOR

	Ayes	Nays
Hauch	x	
Palis	x	
Dukesherer	x	
Grajauskis	x	
Carlson	x	

VIRGINIA PALIS, TOWNSHIP CLERK

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13th day of April, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 19 day of April, 1993; and that true copy of same was filed with the Berrien County Clerk on the 19th day of April, 1993.

Virginia Palis

ORDINANCE FOR ADOPTION OF THE
UNIFORM MECHANICAL CODE

ORDINANCE NO. 12

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "Uniform Mechanical Code", including Appendix A, B, C, and D, 1991 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances with the Township of Sodus providing for issuance of permits and collection of fees therefore: and such "Uniform Mechanical Code", 1991 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall no affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13th day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20th day of July.

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 13

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designed as "National Electrical Code", 1993 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "National Electrical Code", 1993 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after Thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13th day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20th day of July, 1993.

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL PLUMBING CODE

ORDINANCE NO. 14

An ordinance of the Township of Sodus, regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore, repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "BOCA Basic National Plumbing Code", 1991 edition, including Appendix Chapters, A, B, C, D, and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "BOCA Basic National Plumbing Code", 1991 edition, published by the Building Officials and Code Administrators International, Inc., on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance No. 12 adopting the "Uniform Mechanical Code", which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 12 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13th day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20th day of July, 1993.

Virginia Palis, Township Clerk

FRANCHISE
MICHIGAN GAS UTILITIES

ORDINANCE NO. 15

An ordinance granting to UTILICORP UNITED INC., A Delaware Corporation doing business in the State of Michigan under the assumed name Michigan Gas Utilities, its successors and assigns, the right, power, authority and permission to use the highways, streets, alleys and other public places of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of laying and maintaining gas pipes, mains, conduits, valves, drips and all necessary appurtenances in, under and along the highways, streets, alleys and other public places, of said township, and the right, power and permission of conduct and operate a general gas business and distribution system in said Township of Sodus, County of Berrien, State of Michigan for a period of thirty (30) years.

The Township Board of the Township of Sodus, County of Berrien, State of Michigan hereby ordains:

Section. Granting of Franchise to Use Highways, Streets, Alleys and Public Places.

The Township of Sodus, County of Berrien, State of Michigan, (hereinafter called "Grantor"), hereby grants to UtiliCorp United Inc., a Delaware Corporation doing business in the State of Michigan under the assumed name Michigan Gas Utilities, (hereinafter called "Grantee"), its successors and assigns, a franchise to use the highways, streets, alleys and other public places of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of constructing, maintaining and operating a gas distribution system in said Township with full right, power and authority to establish, construct, maintain, extend and operate a plant, stations, mains, pipes, conduits, valves, drips and all other appurtenances, apparatus and appliances within the corporate limits of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of supplying and distributing to said Township and its inhabitants gas for heating and other purposes and, for such purposes, to enter upon and use the highways, streets, alleys, and public lands of said Township and lay, maintain, operate, repair and extend therein, through and thereunder such mains, pipes, conduits, valves, drips, apparatus, appliances and other appurtenances as may be necessary and proper for the distribution of gas throughout and beyond said Township and for the purpose of conducting and operating a gas business in said Township subject to the terms and conditions hereinafter provided.

Section 2. Non-Disturbance of Public Travel; Restoration; Construction Maintenance

In laying its pipes, mains and other appurtenances and repairing and maintaining the same, Grantee shall interfere as little as possible with public travel. After opening any portion of the highways, streets, alleys or other public place, Grantee shall within a reasonable time restore the same as nearly as possible to the same condition as prevailed before opening. While any portion of the highways, streets, alleys or other public place is open. Grantee shall maintain

reasonable barriers and lights at night and other warnings to the users of said highways, streets, alleys or other public place.

Section 3. Hold Harmless

Grantee shall at all times hold Grantor harmless from any loss, damage and expense of any kind on account of laying, constructing, maintenance, and use of said mains, pipes, conduits and other appurtenances.

Section 4. Rates Established by Michigan Public Service Commission

The rates to be charged by Grantee on all rules of service shall be those which are established from time to time by the Michigan Public Service Commission or such other body which shall succeed to the jurisdiction, rights, powers and authority of said Commission.

Section 5. Term; Effective Date

The rights granted in this franchise shall continue in full force and effect for a period of thirty (30) years from the effective date thereof. The effective date of this franchise shall be the date of the acceptance of the franchise by Grantee, which acceptance shall be filed by the Grantee, in writing, within sixty (60) days after the enactment of this ordinance.

Section 6. Franchise Revocable; Irrevocability Upon Approval of Electors

The franchise herein granted shall be revocable at the will of the governing body of this Township, PROVIDED, however, that the same shall become irrevocable if and when confirmed by a majority of the electors voting upon the question at the next general election or at any special election called for that purpose. Such special election shall be held at the request of said Grantee.

Section 7. Expenses of Election Paid by Grantee

In the event of a special election, the expenses thereof shall be deposited with the Clerk of this Township by the Grantee.

Section 8. Ordinance Effective Date

This ordinance shall take effect on the day following the date of publication of the ordinance.

Section 9. Publication

The Township Clerk is hereby directed to cause a true copy of this ordinance to be published in the Herald-Palladium, a newspaper circulating within the Township within 30 days hereof.

Section 10. Recording of Ordinance

Within one week after the publication of this ordinance, the Township Clerk shall record the ordinance in the Book of Ordinances kept by the Clerk for such purpose. Such record shall include the date of passage hereof, the names of the members voting hereon and how each member voted. An attested copy of the Ordinance shall also be filed with the Berrien County Clerk within one week after the publication.

Presented by: Jack Dukesherer

Seconded by: Marie Grajauskis

Voting in Favor: Duane Carlson

Jack Dukesherer

Ronald Hauch

Virginia Palis

Marie Grajauskis

Voting Against: none

I hereby attest that the foregoing Ordinance was adopted by the Township Board of the Township of Sodus, County of Berrien, State of Michigan at a regular meeting held on the 12th day of April, 1994

Dated: April 12, 1994

Virginia Palis
Sodus Township Clerk

I further certify that the foregoing Ordinance was published and filed as follows:

Published : The Herald Palladium

Date of Publication:
(newspaper Proof of
Publication attached) _____

Date of Filing with the
Berrien County Clerk: April 26, 1994

Ordinance No: 15 Date recorded in the
Township Book of Ordinances: April 13, 1994

Dated: April 25, 1994

Virginia Palis
Sodus Township Clerk

ORDINANCE FOR ADOPTION OF THE
UNIFORM BUILDING CODE 1994
ORDINANCE NO. 16

An ordinance of Sodus Township adopting the 1994 edition of the Uniform Building Code, Volumes 1, 2 and 3, regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township; providing for the issuance of permits and collection of fees (delete 1994 fee schedule and use fee schedule from the 1991 edition of the Uniform Building Code) therefore; providing for penalties for the violation thereof, repealing Ordinance No. 11 of Sodus Township and all other ordinances and parts of the ordinances in conflict therewith.

The Township Board of Sodus Township does ordain as follows:

Section 1. That certain documents, two (2) copies of which are on file and are open for inspection of the public in the office of the Building Inspector of Sodus Township, being marked and designated as:

Uniform Building Code, 1994 Edition, published by the International Conference of Building Officials, including the generic fire-resistive assemblies listed in the Fire Resistance Design Manual, Thirteenth Edition, dated April 1992, published by the Gypsum Association as referenced in Tables 7-A, 7-B, and 7-C (also reference Appendix Chapter 12, Division II, if adopted) of the specified Uniform Building Code, including Appendix Chapters 3, 4, 9, 10, 11, 12, 13, 15, 18, 29, 31, 33, 34.

Structural Welding Code – Reinforcing Steel, AWS D1.4-92 (U.B.C. Standard 19-2) and the American National Standard for Accessible and Useable Buildings and Facilities, A117.1 – 1992 (see Uniform Building Code Section 1101.2), published by the Council of American Building Officials as modified or amended in the Uniform Building Code referenced herein;

be and the same are hereby adopted as the code of Sodus Township for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such Uniform Building Code, 1994 Edition, Volumes 1, 2, and 3 published by the International Conference of Building Officials, and the secondary publications referenced above, all of which are on file in the office of Sodus Township are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. (Incorporate penalties for violations.)

Section 3. That Ordinance No. 11 of Sodus Township entitled 1991 Uniform Building Code and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The

Township Board hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That the Township Clerk is hereby ordered and directed to cause this ordinance to be published.

Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

Ronald Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: Nov 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 11 day of Dec., 1996.

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL PLUMBING CODE

ORDINANCE NO. 17

An ordinance of the Township of Sodus regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "BOCA Basic National Plumbing Code", 1991 edition, including Appendix Chapters, A, B, C, D, and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "BOCA Basic National Plumbing Code", 1991 edition, published by the Building Officials and Code Administrators International, Inc., on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance No. 19 adopting the "Uniform Mechanical Code", which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 19 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Snpervisor

Virginia Palis
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 18

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designed as "National Electrical Code", 1993 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "National Electrical Code", 1993 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after Thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of November, 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE
UNIFORM MECHANICAL CODE

ORDINANCE NO. 19

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows;

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as "Uniform Mechanical Code", including Appendix A, B, C, and D, 1991 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus, for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such "Uniform Mechanical Code", 1991 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

Ron Hauch
Sodus Township Supervisor

Virginia Palis
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

Virginia Palis, Township Clerk

**LAND DIVISION ORDINANCE
OF
TOWNSHIP OF SODUS
COUNTY OF BERRIEN, STATE OF MICHIGAN
ORDINANCE NO. 20**

ADOPTED: DECEMBER 9, 1997

EFFECTIVE: JANUARY 16, 1998

LAND DIVISION ORDINANCE

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, by the township existing General Zoning Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

TOWNSHIP OF SODUS
BERRIEN COUNTY, MICHIGAN

ORDAINS

SECTION I

TITLE

This ordinance shall be known and cited as the **Sodus Township Land Division Ordinance**.

SECTION II

PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (I 967 P A 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the township by establishing reasonable standards for prior review and approval of land divisions within the township.

SECTION III

DEFINITIONS

For the purpose of this ordinance certain terms and words used herein shall have the following meaning:

- A. "Applicant" a natural person, firm, association, partnership, corporation, or combination of any of them that hold an ownership interest in land whether recorded or not.
- B. "Divided or Division" the partitioning or splitting of a parcel or tract of land by the proprietor or therefore 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 building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Section 108 and 109 of the State Land Division Act.
- C. "Exempt split or exempt division" 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 parcel of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through access owned by the owner of the parcel that can provide such access.
- D. "Forty acres or the equivalent" either 40 acres, a quarter-quarter section containing not less than 30 acres or a government lot containing not less than 30 acres.
- E. "Governing body" the legislative body of a township, or board of a township.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Sodus Township SHALL NOT BE DIVIDED without the prior review and approval of **person(s) or body designed by the governing body**, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. An exempt split as defined in this Ordinance and the Sate Land Division Act.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Sodus Township Assessor, at the Sodus Township Hall during the normal business hours before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. Completed application on the official Sodus Township Land Division Application form and with such additional information as may be required.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.21 1) by a land surveyor licensed by the State of Michigan, and showing the dimensions and the legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcel for vehicular traffic and utilities from existing public roads.

The applicant's option of providing a **preliminary** drawing will waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the designated, person(s) or body, it may recommend that the Sodus Township Board waive the survey map requirements under certain circumstances such as in the case of farmland for farming purposes and **not** for development purposes. Whereas the foregoing **preliminary** parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed division(s) is located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

If a certified survey map has not been provided the applicant shall submit a **preliminary** drawing or map to scale of not less than that provided for on the application form, include an accurate legal description of each proposed division, showing the boundary lines dimensions and accessibility of each division from the existing or proposed public roads for automobile traffic and public utilities, for **preliminary** review, approval and/or denial by the of the designated, person(s) or body for his or her stamped approval. The applicant must then take the stamped approved preliminary map to the assessor for the application process to be started.

- D. "Proof that all standards of the State Land Division Act and this Ordinance have been met.
(See Check list accompanying this ordinance)

E. The history and specifications of any previous divisions of land of which the proposed division as a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

F. Proof that all due and payable taxes or installments of special assessment pertaining to the land proposed to be divided are all paid in full.

G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

H. Unless a division creates a parcel which is acknowledged and declared to be "Not buildable" under Section VIII of the ordinance, all divisions shall result in buildable parcels containing sufficient "Buildable" area outside of the nonbuildable wetlands, flood plains, and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, etc.

I. The fee as may from time to time be established by resolution of the Sodus Township Board for land division review pursuant to this ordinance to cover the cost of review of the application and administration of this Ordinance and State Land Division Act.

SECTION VI

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a completed land division application package, the Assessor of Sodus Township shall forthwith submit the same to the designated, person(s) or body, for processing. After review, it shall approve, approve with reasonable conditions to assure compliance with applicable ordinances, or disapprove, within 45 days, and shall promptly notify the applicant of the decision and the reason for any denial. If the application package does not conform to this Ordinance and/or the State Land Division Act, the Assessor, or the designated, person(s) or body, shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the designated, person(s) or body, may within 30 days of said decision appeal to the Sodus Township Zoning Board of Appeals. Sodus Township Zoning Board of Appeals shall consider and resolve such appeal by a majority vote of said Board at its next 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.

C. A decision approving a land division is effective for 6 Mo. from the final approval by the last Board to review the land split, after which it shall be considered revoked, unless within such period the document, deed(s), land contract(s), or lease(s) is recorded with Berrien County Register of Deeds office, and a copy of the approved application is filed with the Berrien County Planning Department (Land Description office) and the Sodus Township Assessor.

D. The Sodus Township Assessor or designee shall maintain a records of all land division applications either approved or denied.

SECTION VII

STANDARDS FOR APPROVAL OF LAND DIVISIONS

A proposed land division shall be approved if the following criteria are met:

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the **Sodus Township Zoning Ordinance**, including but not limited to, minimum lot (parcel) road frontage (width), minimum lot (parcel) area, minimum lot width to depth ratio, and minimum setbacks for existing building/structures.

B. The proposed land division(s) comply with all the requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, the ordinance standards applicable under the **Sodus Township Zoning Ordinance** and Berrien County Road Commission Ordinance shall be a minimum standard.

D. The ratio of depth to width of any parcel created by the division does not exceed a four(depth) to one(frontage) ratio exclusive of access roads, easements or nonbuildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio, if 10 acres or less. The permissible depth of a parcel created by 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 permissible minimum width(frontage) shall be as defined in the **Sodus Township Zoning Ordinance**.

E. Where accessibility is to be provided by a proposed new dedicated public road, proof that Berrien County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

F. Where public water and/or sewer service is not available, at the time application for building permit is issued proof that an approved well location and approved area for a septic system and drain field(s) is available.

G. Right to Farm Act, all deeds for parcels of unplatted land within the State of Michigan must now contain the following statement, regardless of whether the parcel is located in a downtown metropolitan area or in a remote region of the upper Peninsula:

“This property may be located within a vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act”.

SECTION VIII

ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISION

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with applicable lot, yard, accessibility and area requirements of the **Sodus Township Zoning Ordinance** or this Ordinance may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the Berrien County Register of Deeds, in a form acceptable to Sodus Township, designating the parcel as a “not buildable”. Any such parcel shall also be designated as “not buildable” in the township records, and shall not thereafter be the subject of a request to the Sodus Township Zoning Board of appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or are requirements with which the parcel failed to comply.

C. Where the proposed land division involves only minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance (**Sodus Township Zoning Ordinance**, or the State Land Division Act).

D. Where after due process, the Sodus Township Zoning Board of Appeals has granted a Variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

SECTION IX

CONSEQUENCES OF NON COMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.

SECTION X

PENALTIES AND ENFORCEMENT

Any person who willfully violates any of the provisions of this ordinance shall be deemed guilty of a municipal civil infraction and shall be punished by a fine of not more than \$1000.00 or by imprisonment in the County jail for not to exceed 90 days or by both such fine and

imprisonment.

Any person who willfully violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION XI

SEVERABILITY

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part of portion thereof.

SECTION XII

REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the **Sodus Township Zoning Ordinance**, Sodus Township Building Code, or State Land Division Act.

SECTION XIII

EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.

Adopted this Ninth day of December 1997.

TOWNSHIP OF SODUS

_____, Clerk
Virginia Palis

_____, Supervisor
Ronald Hauch

PETITION FOR GRANT OF ELECTRIC SERVICE FRANCHISE

ORDINANCE NO. 21

TO THE Township of Sodus BOARD OF TRUSTEES, BERRIEN COUNTY, MICHIGAN.

Pursuant to the provisions of the Franchise for Use of Highways Act, 1909, PA 266, MCLA 460.601 et seq., MSA 22.171 et seq., petitioner INDIANA MICHIGAN POWER COMPANY dba AMERICAN ELECTRIC POWER (AEP) respectfully represents that:

1. Petitioner is an investor-owned utility organized under the laws of the State of Michigan for the purpose of constructing and maintaining electric production, transmission and distribution systems for service in its service territory within the State of Michigan.

2. Petitioner has continuously provided electric service to its customers residing in the Township of Sodus for a period in excess of 30 years during which period substantial and costly capital investment and construction has occurred.

3. Pursuant to the aforementioned statute, the Township of Sodus Board may grant by franchise to Petitioner the right to use the highways, streets, alleys and other public places of the township to set poles, string wires, lay pipes or conduits, and the right to operate and maintain the same, and the right to transact a local business subject to such reasonable regulations as the Board may prescribe, subject to confirmation at the next regular election or special election by a majority of the electors voting upon the question in the affirmative.

WHEREFORE, Petitioner respectfully requests that:

A. The Township of Sodus Board grant to AEP, its successor and assigns, a franchise giving AEP the right, power and authority for a period of thirty (30) years to acquire, construct, operate and maintain the necessary facilities for the production, transmission, distribution and sale of electric energy for public and private use, and to use and occupy the highways, streets, alleys, and other public places in the Township of Sodus, Berrien County, Michigan

Date: September 22, 2000

Edwin A. Emrich
Community Service Manager
INDIANA MICHIGAN POWER COMPANY
2425 Meadowbrook Road
Benton Harbor MI 49022

ELECTRIC FRANCHISE

An Ordinance, granting to Indiana Michigan Power Company, its successors and assigns, the right, power and authority to construct, maintain and operate lines for the transmission and distribution of electric energy on, along, across and under the highways, streets, bridges, and other public places and to operate and maintain the same and to transact a local business in the Township of Sodus, Berrien County, Michigan.

The Township Board of the Township of Sodus, County of Berrien, State of Michigan:

ORDAINS:

Section I.

The Indiana Michigan Power Company, its successors and assigns (Hereinafter called "Grantee") are hereby granted the right, privilege, franchise and authority to acquire, construct, maintain and operate in, above, under, across and along the streets, thoroughfares, alleys, bridges and public places (as the same now exist and may hereafter be laid out) of the Township of Sodus, County of Berrien, State of Michigan, lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances for the purpose of supply electric energy to said Township and the inhabitants thereof, and persons or corporations beyond the limits thereof, for light, heat, power, or any other purposes or purpose for which electric energy is now or may hereafter be used, and the transmission of the same within, through or across said Township of Sodus, County of Berrien, State of Michigan, subject to such reasonable regulations as the Township Board shall prescribe from time to time.

Section II.

All of Grantee's towers, masts, and poles shall be so placed on either side of the highways, streets, alleys and bridges as not to unnecessarily interfere with the use thereof for highway, street, alley and bridge 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, alleys, and bridges. All work performed by said Grantee in said highways, street, alleys, and bridges shall be done so as to minimize interference 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 cut or trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities. The supervision of highway authorities shall be limited to the purpose of minimizing interference with the public use of highways, streets, alleys, and bridges.

Said lines and appurtenances shall be constructed so as to interfere as little as possible with the proper lawful use of the streets, alleys, and public places. The installation of all poles, conduits, and appurtenances shall be according to industry standards and shall be subject to such reasonable regulations as shall be prescribed by said Township Board from time to time.

Section III.

The rights, privileges and franchise hereby granted shall be in force and effect for a period of thirty (30) years from the date of the passage of this franchise ordinance, but revocable at the will of this Township Board unless approved by vote of the electors.

The rights, privileges and franchise hereby granted shall not be construed to be exclusive and the Township Board of the Township of Sodus, County of Berrien, State of Michigan, hereby reserves the power to grant similar rights, privileges and franchises to any other person or persons, firm or firms, corporation or corporations.

Section IV.

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.

Section V.

Whenever said Grantee shall begin the erection of any lines or equipment, it shall promptly and diligently prosecute the work to completion and leave the streets, alleys, and public places where such work is done in as good condition of repair as before such work was commenced.

Section VI.

Whenever in this franchise, reference is made to the Township or the Grantee, it shall be deemed to include the respective successors or assigns, of either and all rights, privileges and obligations herein contained by or on behalf of said Township, or by or on behalf of said Grantee, shall be binding upon and inure to the benefit of the respective successors or assigns of said Township or of said Grantee, whether so expressed or not.

Section VII.

This franchise shall be accepted by the Grantee within sixty (60) days from the date of the adoption of this ordinance.

Section VIII.

This franchise shall take effect from and after its adoption, acceptance and publication as required by law.

Dated this 22nd day of May, 2001.

Township of Sodus, County of Berrien, State of Michigan.

Supervisor

Township Clerk

I hereby attest that the foregoing ordinance was adopted by the Township of Sodus, County of Berrien, State of Michigan, at a regular meeting held on May 22, 2001.

Clerk

TO THE TOWNSHIP BOARD OF THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN:

Indiana Michigan Power Company (I&M) hereby accepts the Electric Franchise granted to I&M by the Township Board on the 22nd day of MAY, 2001, which is entitled:

AND ORDINANCE, GRANTING TO INDIANA MICHIGAN POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE LINES FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENEREGY ON, ALONG, ACROSS AND UNDER THE HIGHWAYS, STREETS, BRIDGES, AND OTHER PUBLIC PLACES AND TO OPERATE AND MAINTAIN THE SAME AND TO TRANSACT A LOCAL BUSINESS IN THE TOWNSHIP OF ROYALTON, BERRIEN COUNTY, MICHIGAN.

INDIANA MICHIGAN POWER COMPANY

Dated: 6 / 29 / 2001

Edwin A. Emrich
Manager Community Services

AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN

COUNTY OF BERRIEN) SS

Traci Harmon, being duly sworn and says that she is Inside Sales Supervisor of The Herald-Palladium, a newspaper published, printed and circulated in the County of Berrien, State of Michigan; That the annexed printed notice has been printed and published in said newspaper 1 times, Same being on the following days, to wit:

June 4, 2001

Traci Harmon

Subscribed and sworn to me this
11 Day of June A.D. 2001

Jennifer Ann Lyon

NOTARY PUBLIC, Berrien County, Michigan
My commission expires 12/31 2001

SODUS TOWNSHIP
COMMUNICATION TOWER ORDINANCE

ORDINANCE NO. 22

An ordinance to provide for the application, review, construction and maintenance of telecommunication towers for the health, safety and welfare of the residents of Sodus Township; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

This Ordinance shall be know as the “COMMUNICATION TOWER ORDINANCE”.

Section 1.01 PURPOSE The purpose of this ordinance is to provide a procedure for the application, siting, regulation, construction and operation of towers, structures and related facilities that utilize the radio frequency spectrum for the purpose of transmitting, rebroadcasting or receiving radio signals.

Section 1.02 DEFINITIONS For the purpose of this ordinance certain terms and words used herein shall have the following meanings:

- A. Telecommunication Tower shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building(s) and private and commercial mobile radio facilities. Not included within this definition are; citizens band radio facilities; short-wave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and government facilities which are subject to state or federal law or regulations which pre-empt municipal authority.
- B. Collocation shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reducing the overall number of structures required to support wireless communication antennas within the community.
- C. Feasibility of collocation. Collocation shall be deemed to be feasible for the purpose of this section where all of the following are met.
 - a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
 - b. The site, on which collocation is being considered, taking into consideration reasonable modification of a facility, is able to provide structural support.
 - c. The collocation being considered is technologically reasonable, e.g.; the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas. And the like.
 - d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Section 1.05 of this ordinance.

Section 1.03 APPLICATION FOR SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

A. Special Land Use Requirements

1. Permit

No telecommunication tower shall be erected in the Township without first having acquired a permit as described in this section.

2. Application

The owner of records shall submit an application following the steps listed in Zoning Ordinance Section 11.02 "Application Procedures".

3. Contents

In addition to the information required on the application form, an application submitted under this ordinance shall include:

- a) A statement describing the efforts by the applicant utilized to determine the feasibility of collocation. If collocation is unavailable or not practical the applicant shall provide a statement that identifies the facts, characteristics and /or the circumstances which renders collocation unavailable or technically not practical for the coverage area and capacity needs. A Certified Michigan Professional Engineer must verify any such document.
- b) A site plan prepared in accordance with the requirements of Zoning Ordinance Section 10 "Site Plan Requirements".
- c) An Engineering drawing of the tower design signed by a Certified Michigan Structural or Professional Engineer verifying that the tower design meets all wind load and soil bearing requirements for the intended site.
- d) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to insure long term, continuous maintenance to a reasonable prudent standard.
- e) The name, address and phone number of the person to contact for engineering and other notice purposes. The applicant shall continuously update this information during all times the facility is on the premises.
- f) A list of all property owners within a one-half mile radius of the proposed site.
- g) A map showing the locations, name and address of the owner(s) and/or operators of any other telecommunication tower within the Township and any other tower within a five-mile (5) radius of the proposed site, identifying any other collocation utilized on each tower.

Section 1.04 PUBLIC HEARING REQUIREMENTS

1. Public Hearing

- a. Providing all of the above requirements have been satisfied, the Township Planning Commission shall hold a hearing on the site plan and special land use request as specified in Zoning Ordinance 11.02 F. Notice of the hearing shall be given by mail or personal delivery to the owners of property for which Special Land Use Permit approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notice of the public hearing also to be published in a newspaper of general distribution in Sodus Township. Notice to be published no more than 15 nor less than 7 days prior to the hearing.

Section 1.05 STANDARDS FOR APPROVAL OF SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

1. Qualifying Conditions

- a) The following site and develop requirements shall apply;
 - i) The proposed site must meet all front, side and rear yard setback requirements where not specifically addressed herein and any minimum road requirements that may be established.
 - ii) The use of guy wires is prohibited. All towers shall be self-supporting.
 - iii) The base of the tower shall be fenced with a six foot (6) high fence.
 - iv) Telecommunication towers shall only be located in the following districts,

R-AG, Residential Agricultural; C, Commercial; M-1, Industrial; M-2, Industrial Park; M-A, Industrial Agricultural; AG, Agricultural;
 - v) Any such site that is approved shall maintain a separate access road or driveway. No other use shall be served by said driveway or road.

Section 1.06 SPECIAL PERFORMANCE STANDARDS

1. The tower must be set back from all property lines a distance equal to its height, **unless** engineering plans and specifications have been verified by a Certified Michigan Structural or Professional Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall bear all costs associated with the engineering review.
 - a) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty feet (30').

- b) Accessory structures shall not exceed six hundred (600) square feet of gross building area.
- c) All buffer yard requirements within the Zoning Ordinance shall be otherwise satisfied.
- d) The division of property for the purpose of locating a wireless communication facility is prohibited unless all Zoning Ordinance requirements and conditions are met.
- e) A registered structural engineer licensed in the State of Michigan shall certify the tower construction plans.
- f) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and the installation is in compliance with all applicable codes.
- g) All towers must meet the standards of the Federal aviation Administration and the Federal Communications Commission.
- h) Communication towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or one-half (1/2) mile radius of a heliport.
- i) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is located. In no case shall a tower or antenna be located within thirty-feet (30') feet of a property line. The applicant may apply to the Zoning Board of Appeals for a setback variance.
- j) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- k) Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- l) Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the building code.
- m) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground.
- n) Towers shall be located and designed so that they do not interfere with telephone, radio, and television reception in nearby residential areas.
- o) Towers shall be located so as to allow maintenance vehicles to maneuver on the property.

- p) Minimum spacing between communication tower locations shall be one (1) mile to prevent a concentration of towers in the Township.
- q) Height of the tower shall not exceed three hundred (300) feet from grade.
- r) Towers shall be artificially lighted only to the extent required by the FAA, or by the Township Board whichever is greater. Where possible, considering all site restrictions, any such lighting shall not unduly interfere with the peace and repose of the surrounding land uses, whether or not in the same zoning district.
- s) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- t) No advertisement or identification of any kind, except required for emergency purposes, shall be displayed or erected on the property.
- u) The antenna shall be painted to match the exterior treatment of the tower. The paint scheme shall minimize the off-site visibility of the antenna and tower.
- v) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive standards are adopted in the future, the antenna shall be made to conform to said regulations within in 30 days or the Special Land Use approval will be subject to revocation by the Township Board. All costs for testing and verification of compliance shall be borne by the operator of the antenna.
- w) There shall be no employees located on the site. Occasional or temporary repair service activities are excluded from restriction.
- x) Where the property adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees having a minimum height at time of planting of five feet (5') on ten foot (10') centers along the entire perimeter of the tower and related structure. The applicant shall maintain these trees, and dead trees shall be replaced during the following planting season. Any necessary replacements shall also be a minimum height of five feet (5') at the time of replacement. The applicant shall maintain these trees perpetually.
- y) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- z) The site and tower shall be maintained in compliance with all applicable laws, codes and ordinances. The Township may require landscaping or other improvements to the site so as to minimize the aesthetic, or other damage the tower causes to the surrounding properties.

2. LAND DIVISION

Subject to the Sodus Township Land Division Ordinance, the division of property for locating a wireless communication facility is prohibited unless all zoning requirements are met.

Section 1.07 PENALTIES AND ENFORCEMENT

1. ABANDONMENT and PENALTIES for VIOLATION

The property owner shall remove the tower within six months of being abandoned. If the applicant fails to do so within six months of abandonment, special use shall be considered revoked. The Township may, at its sole discretion, enter the property and cause the demolition of the tower, antennae, and any necessary structure(s). Prior to demolition, the Township shall provide written notice of demolition via first class mail to the applicant not less than thirty days (3) prior to demolition. All costs, including attorney fees, associated with demolition shall be placed on the tax bill of the property as a special assessment.

Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a municipal civil infraction shall be punishable by imprisonment of up to ninety (90) days and a fine of up to \$500.00 or both. Each day a violation exists shall be a separate offense.

PRIVATE ROAD ORDINANCE
OF
TOWNSHIP OF SODUS
COUNTY OF BERRIEN, STATE OF MICHIGAN

ORDINANCE NO. 23

An Ordinance to protect the health, safety, and general welfare of the inhabitants of Sodus Township.

SECTION 1.01

PURPOSE

The Township has hereby determined that as large tracts of land are divided, sold transferred, and developed, private access roads are being created to provide access to the newly divided properties, not subject to regulation under the Michigan Subdivision Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of Private Roads to assure:

A. THAT Private Roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.

B. THAT said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

C. THAT Private Roads will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and natural environment of the Township.

SECTION 1.02

DEFINITIONS

For purposes of this section, the following terms are defined as follows:

A. An “existing Private Road” is a Private Road or a Private Road System, which is used to provide access to no less than two (2) or more than five (5) existing lots, or dwelling units as of the effective date of this Ordinance.

B. An “existing lot” is a lot which, as of the effective date of this Section, meets all Township of Sodus regulations for the district in which it is located, and meets at least one of the following conditions:

- (1) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Berrien County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded by the Berrien County Register of Deeds;
- (2) The lot has been assigned its own permanent parcel number by the Berrien County Property Description and Mapping Department and is individually assessed and taxed on that basis.

C. An “existing dwelling unit” is a single family home for which the Township as of the effective date of this Ordinance has issued a building permit.

SECTION 1.03

GENERAL REQUIREMENTS AND APPLICATION TO EXISING PRIVATE ROADS

A. After the effective date of this Ordinance, a Private Road shall not be constructed, extended, relocated, or rebuilt, except in accordance with the minimum standards and requirements of this Ordinance. If an additional lot is proposed adjacent to an existing Private Road, the road shall meet the requirements of Section 1.04E and a Private Road Permit must be obtained as per Section 1.06. If an existing Private Road is proposed to be extended, then the existing portion shall be improved to meet the standards of this Ordinance.

B. Private Roads are permitted in the following districts.

- R-AG, Residential
- R-1, Single Family Residential
- R-3, Multi-Family Residential
- C, Commercial
- M-1, Industrial
- M-2, Industrial Park
- M-A, Industrial Agriculture
- AG, Agricultural

C. The provisions of this ordinance shall not apply to access roads internal to any individual lot or parcel of land that has direct public street frontage access. Is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the provisions of this ordinance include those serving apartment complexes, mobile home parks, nursing homes, hospitals, factories, schools and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Sodus Township Zoning Ordinance

D. Private Roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets if it is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Planning Commission shall consider the circulation pattern and traffic volumes on nearby public streets, and existing and proposed land use in the general area, the recommendations contained within the Sodus Township Master Plan, and Street plan, if any and if applicable, the street and highway plans of the Berrien County Road Commission and Michigan Department of Transportation.

E. Where Private Roads in existence prior to the effective date of this ordinance are to be extended and serving five (5) lots or less, the existing road may be extended, provided that the entire Private Road is improved to the construction specifications of section 1.04(E) of this ordinance.

SECTION 1.04

MINIMUM STANDARDS FOR PRIVATE ROADS

A. A Private Road shall be located within a Private Road Easement. Such easement shall not be less than (66) feet in width for residential, (80) Feet in width for Industrial & Commercial. If all other requirements are met, the easement can be part of the road frontage of a lot.

At any dead end of such easement, the easement shall widen such that there is a minimum radius of sixty-seven (67) feet Residential, or eighty-two (82) feet Industrial & Commercial.

B. A lot shall have frontage on the Private Road Easement, which is at least equal to the minimum lot frontage required for the zoning district in which the lot is located.

C. A Private Road shall intersect and connect to a public road. The Private Road shall have a minimum of sixty-six (66) feet of frontage for residential, eighty (80) feet for Industrial & Commercial at its access point to the public road. A Private Road shall not be approved which accesses a public road by another Private Road.

D. A Private Road serving two (2) or more lots shall be given a street name that is not the same or similar to any other street named in the county. A street sign, bearing the street name given the Private Road, meeting Berrien County Road Commission standards as to design, location and maintenance, shall be erected and maintained by the applicant/s where such Private Road intersects any public road. This provision shall also apply to existing Private Roads. A street sign shall be erected within one (1) year after the adoption of this Ordinance.

E. A new Private Road serving five (5) or less lots is not required to be paved but shall have a minimum width of sixteen (16) feet with a three (3) foot shoulder on each side. Shoulder grading shall not exceed a slope of one half of an inch (1/2") per foot. The road shall have a minimum of three-tenths foot (0.3") crown from the centerline to the edge of the road. The road base shall consist of at least a six (6) inch gravel base (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class 2). The road shall widen at any dead-end so there is at least a forty (40) foot radius turn-around.

F. A Private Road shall not exceed a grade of six percent (6%), provided that within 30 feet of an intersection of a Private Road with any other Private Road or with any public right-of-way a Private Road shall not exceed a grade of one and one-half percent (1.5%).

G. Private Road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a Private Road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Berrien County Drain Commission and State of Michigan requirements.

H. A dwelling unit that derives its primary access from a Private Road shall display a house number in a manner so that the number is at all times readily visible from the Private Road. The house numbers shall be a minimum of three (3) inches in height.

I. In determining the location of a Private Road, consideration shall be given to safety of traffic entering and exiting the driveway in relationship with the public road.

J. The Private Road intersection must have a minimum corner clearance of one hundred twenty five (125) feet from a public road cross street. Corner clearance is measured from the ultimate near cross street curb to the near Private Road curb.

Section 1.05

ROAD MAINTENANCE

A. Road Maintenance Agreement

The applicant/s, and/or owner/s, of the proposed Private Road shall provide to the Township Clerk a recorded road maintenance agreement, access easement agreement, and deed restrictions in compliance with Section 1.06 (B) (5) which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the Private Road. These documents shall contain the following provisions:

- (1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonable good and usable condition.
- (2) A workable method of apportioning the costs of maintenance and improvements. For new Private Road applications and for applications for the extension of existing Private Roads, the recorded road maintenance agreement and the method of apportioning the costs of maintenance and improvements shall provide that any future improvements required or desired shall be completed over the entire length of the Private Road and/or any extensions thereto.
- (3) A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in Section 1.04 and assess owner/s of parcels on the Private Road for the improvements, plus an administrative fee in the amount of 10% of the total cost of the improvements.

- (4) A notice that no public funds of the Township of Sodus are to be used to build, repair, or maintain the Private Road.
- (5) Easements to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.
- (6) A provision that the owner/s of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owner/s. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

B. Road Maintenance and Improvement Standards

- (1) Improvements to and maintenance of Private Roads shall be accomplished so as to provide for a consistent surface maintained to meet the requirements of this Ordinance throughout the entire length of the Private Road.

SECTION 1.06

PROCEDURE FOR REVIEW OF PRIVATE ROADS

A. Permit Application and Fee

An application to establish, extend, relocate, or rebuild a Private Road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

- (1) The name(s) of the owner/s and any other parties having any legal interest in the Private Road and the property across which it is to be constructed.
- (2) Permanent parcel number or legal description of the property over which the Private Road is to be constructed.
- (3) A site location map not to scale, which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
- (4) A scaled drawing showing the location, route, dimensions, specifications and design of the Private Road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the Private Road is to intersect, in compliance with this Ordinance.
- (5) A scale drawing illustrating the proposed lot divisions.
- (6) A road maintenance agreement, access easement agreement and deed restrictions as described in Section 1.05 herein, shall also accompany the application.

- (7) A copy of the Driveway Permit Application from the Berrien County Road Commission.
- (8) A letter from the Berrien County Road Commission indicating there is no known duplication of the proposed Private Road name.

B. Review of Permit Application

- (1) The permit application, drawings and other required information should be forwarded to the Planning Commission to determine compliance with the standards for Private Roads. Not less than five (5) nor more than fifteen (15) days prior to the meeting, the Planning Commission Chairman shall send a notice to all property owners within three hundred (300) feet of the subject property.
Such notice shall describe the approximate location of the proposed new Private Road or the extension, relocation or rebuilding of an existing Private Road and the date, time and place of the Planning Commission meeting at which time the application will be considered.
- (2) The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer, or Planner as deemed necessary. A quorum of the Planning Commission shall be present to review and decide upon the permit application.
- (3) If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall then recommend to the Township Board that a permit be issued for the construction of the Private Road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the Private Road plans shall be stamped for approval; the applicant/s, and one for Township records. This construction permit is not a Private Road Permit and does not authorize the construction of any dwelling units on the Private Road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the Private Road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.
- (4) If the Planning Commission denies the application, the Planning Commission meeting minutes shall be provided to the applicant/s within fourteen (14) working days of the date of the Planning Commission meeting.
- (5) Final Compliance Requirements – Upon completion of construction of the Private Road, the applicant/s shall provide to the Zoning Administrator, (a) a letter from a registered professional engineer or the Berrien County Road Commission that the road has been constructed in compliance with the approved Private Road plans. (b) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Berrien County Register of Deeds office, and (c) a Driveway Permit for the Private Road from the Berrien County Road Commission.

- (6) Private Road Permit Issuance – Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (7) Permits for Dwellings on Private Roads – A building permit shall not be issued for any principal dwelling that derives its primary access from a Private Road unless, a Private Road Permit has been issued by the Township, and the road has been completed in accordance with the approved permit.

SECTION 1.07

TOWNSHIP LIABILITY

The owner/s of the Private Road agree by applying for and securing a permit to construct the Private Road, that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the Private Road. Such wording shall appear on the application for the permit and be signed by the applicant/s.

SECTION 1.08

VARIANCES

Any person affected by a decision regarding this Ordinance shall have the right to appeal the decision to the Township Board of Appeals within twenty-one (21) days. Such appeal shall be filed with the Township Clerk in writing and shall state the reasons for appeal and any documents in support thereof. The Township Board of Appeals shall establish a time for hearing the appeal that shall be no later than thirty (30) days after filing. Board of Appeals shall send written notice of such hearing by first class mail. It shall also be provided to all adjacent properties that depend or may depend in the future on the Private Road for access and all properties with 300 feet of such Private Road and to all Planning Commission members. Such notice shall be given not less than seventy-two hours prior to such hearing. The decision of the Township Board of appeals shall be set forth in writing and be delivered to the applicant/s within ten (10) calendar days following the hearing. The decision of the Township Board of Appeals shall be final. An appeal may be taken to Circuit Court. The Township Board of Appeals shall grant variances only upon a finding, from reasonable evidence that the following facts and conditions exist:

- (A) THAT the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or the public interest. The possibility of increased financial return shall not of itself be deemed sufficient to grant a variance.
- (B) THAT the condition or situation of the specific piece of property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such conditions or situation.

(C) THAT by reason of exceptional narrowness in width, breadth, length, or shape of specific piece of property on the effective date of the Ordinance, or by reason of unusual topographic conditions, or other extraordinary situation or condition of the land, building, or structure or of the use of property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardship.

(D) WHERE there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance is observed, public safety secured and substantial justice done.

SECTION 1.09

PENALTIES

Any person who violates a provision of this Ordinance shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof, shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs. Each day that a violation occurs shall be considered a separate violation. The issuance of a citation for a municipal civil infraction shall not in any way limit the township in seeking enforcement of the provisions of this Ordinance, including but not limited to, requesting a civil restraining order from any court of competent jurisdiction.

SECTION 1.10

SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the Ordinance, which shall be given effect.

SECTION 1.11

EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its publication in the manner provided by law.

Adopted this twenty third day of April 2002.

Tom Eversole

Virginia Palis

ADOPTED: 23 APRIL 2002

TOWNSHIP OF SODUS

Berrien County Michigan

ORDINANCE ENFORCEMENT OFFICER ORDINANCE
ORDINANCE NO. 24

(Adopted: June 14, 2005)

An ordinance to establish the office of ordinance Enforcement Officer; to prescribe the duties of said office; to authorize the Township Board to appoint any person persons to said office; and to amend any ordinances of Sodus Township which conflict with the provisions thereof.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1 – Ordinance Enforcement Officer Established

There is hereby established the office of Ordinance Enforcement Officer within the Township of Sodus, Berrien County, Michigan.

Section 2- Appointment Authority

The Sodus Township Board is hereby authorized by resolution at any regular meeting of the Board, to appoint any person or persons to the office of Ordinance Enforcement Officer for such term or terms as may be designated in said resolution. Said Board may further, by resolution, remove any person from said office, at the discretion of said Board.

Section 3 – Authority of Ordinance Enforcement Officer

The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the Township of Sodus, whether heretofore or hereafter enacted, and whether such ordinances specifically designated a different official to enforce the same or do not designate any particular enforcing officer. Whether a particular officer is so designated in any such ordinance, their authority shall continue in full force and effect and shall in no way be diminished or impaired by the terms of this ordinance, and the authority of the Ordinance Enforcement Officer to enforce the same shall be in addition to and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer shall, in the performance of the officer's duties, be subordinate and responsible to the Supervisor or such other Township Board member as the supervisor may from time to time designate.

Section 4 – Duties of Ordinance Enforcement Officer

The Ordinance Enforcement Officer's duties herein authorized shall include, among others, the following Ordinance violations; serving notice of violations; serving appearance tickets as authorized under Act 147 of the Public Acts of 1968, being MCL 764.9A, et seq., Public Action 175 of 1927, being MCL 760.1, et seq., both as amended; appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators; and such other ordinance enforcement duties as may be delegated by the Township Supervisor or assigned by the Township attorney.

Section 5 – Powers of the Ordinance Enforcement Officer

The Ordinance Enforcement Officer is hereby declared to be a peace officer under the authority of Michigan Public Act 246 of the Public Acts of 1945, being MCL 41.181, et seq., as amended, and is a public servant specifically authorized by law or ordinance to issue and serve appearance tickets pursuant to Act 175 of 1927, being MCL 764.9C, et seq., as amended, and an authorized local officer pursuant to MCL 600.8701, et seq., as amended.

Section 6 – Saving Clause

The provisions of the within ordinance are hereby declared to be severable and the invalidation of any one or more of the same by any judicial determination or statutory or constitutional provision shall not invalidate the remainder of said provisions or ordinance.

Section 7 – Effective Date

This Ordinance shall take immediate effect. All ordinances of the Township heretofore or hereafter adopted shall hereafter be supplemented by the terms of this ordinance.

I hereby certify the foregoing is a true and correct copy of the Ordinance Enforcement Officer Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 14 day of June, 2005.

Virginia Palis, Clerk
Sodus Township

A motion that said "Ordinance Enforcement Officer Ordinance" be enacted was made by Virginia Palis, and supported by Marie Grajauskis at a regular meeting of the Sodus Township Board on the 14 day of June, 2005.

The names of the Township Board members and their votes are as follows:

<u>Name</u>	<u>Yes</u>	<u>No</u>
Michele Bennett	x	
Virginia Palis	x	
Karen Morgan		x absent
Marie Grajauskis	x	
Kenneth Peters	x	

I hereby certify that the foregoing ordinance was published in the Herald Palladium
St. Joseph, Michigan, on the _____ day of June, 2005.

Virginia Palis, Clerk
Sodus Township

STATE CONSTRUCTION CODE

ORDINANCE

FOR FLOODPLAIN MANAGEMENT PROVISIONS

SODUS TOWNSHIP

BERRIEN COUNTY

ORDINANCE NO. 25

An ordinance to designate an enforcing agency to discharge the responsibility of Sodus Township located in Berrien County, under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

SODUS TOWNSHIP HEREBY ORDAINS:

Section 1. AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of Sodus Township is hereby designated as the enforcing agency to discharge the responsibility of Sodus Township under Act 230, of the Public Acts of 1972, as amended, State of Michigan. Sodus Township assumes responsibility for the administration and enforcement of said Act through out its corporate limits.

Section 2. CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8B(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within Sodus Township.

Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled the Berrien County Flood Insurance Study and dated April 17, 2006, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 0108C, 0109C, 0120C, 0130C, 0140C, 0235C, 0251C, 0252C, and 0253C and dated April 17, 2006, are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

Section 4. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 5. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

Adopted this 28 day of March, 2006.

This ordinance duly adopted on March 28, 2006, at a regular meeting of The Sodus Township Board and will become effective on April 30th, 2006.

A motion that said State Construction Code Ordinance be enacted was made by Ken Peters and supported by Marie Grajauskis at a regular meeting of the Sodus Township Board on the 28 day of March, 2006.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michelle Bennett	x	
Virginia Palis	x	
Karen Morgan	x	
Marie Grajauskis	x	
Kenneth Peters	x	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Sodus Township Board at a meeting held on the 28 day of March, 2006, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 167 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least (18) hours prior to the time set for said meeting.

Dated 3-28-06

Virginia Palis
Clerk, Sodus Township

TOWNSHIP OF SODUS

Berrien County, Michigan

Adoption of Industrial Waste Rules and Regulations

ORDINANCE NO. 26

(Adopted: April 11th, 2006)

An ordinance to secure the public health, safety and general welfare of the residents and property owners of Sodus Township, Berrien County, Michigan, by adoption of the Joint Treatment Plant Industrial Waste Rules and Regulations promulgated by the Joint Board.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1

The purpose of this Ordinance is to adopt the Rules and Regulations to provide for the maximum possible beneficial public use of the Joint Board's Waste Water Treatment facilities through regulation of sewer use, waste water discharges; and to provide procedures for complying with the requirements contained therein.

Section 2

Sodus Township is entering into an Addendum to the Sanitary Sewer Service Agreement attached hereto and made a part hereof.

Section 3

Sodus Township hereby incorporates the attached Industrial Waste Rules and Regulations promulgated by the Joint Board, including amendments as may be adopted from time to time, to regulate the discharge of industrial and commercial sanitary and/or process sewage to sewer systems tributary to the Joint Board.

Section 4 - Effective Date/Appeal

This Ordinance shall take effect on June 1, 2006. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

I hereby certify the foregoing is a true and correct copy of the Adoption of Industrial Waste Rules and Regulations Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 11 day of April, 2006.

Virginia Palis, Clerk
Sodus Township

A motion that said "Adoption of Industrial Waste Rules and Regulations" Ordinance be enacted was made by Ken Peters, and supported by M. Bennett, at a regular meeting of the Sodus Township Board on the 11th day of April, 2006.

The names of the Township Board members and their votes are as follows:

<u>Name</u>	<u>Yes</u>	<u>No</u>
Michele Bennett	<u> x </u>	<u> </u>
Virginia Palis	<u> x </u>	<u> </u>
Karen Morgan	<u> x </u>	<u> </u>
Marie Grajauskis	<u> x </u>	<u> </u>
Kenneth Peters	<u> x </u>	<u> </u>

I hereby certify that the foregoing ordinance was published in the Trade Lines Sodus, Michigan, on the 17th day of April, 2006.

Virginia Palis, Clerk
Sodus Township

SODUS TOWNSHIP
SEXUALLY ORIENTED BUSINESSES
ORDINANCE NO. 27
Effective June 1, 2006

AN ORDINANCE OF SODUS TOWNSHIP REGULATING SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR THE PURPOSE; PROVIDING FOR DEFINITIONS "ADULT ARCADE," "ADULT BOOKSTORE," "ADULT NOVELTY STORE OR ADULT VIDEO STORE," "ADULT CABARET," "ADULT MOTEL," "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER," "EMPLOYEE," "ESCORT," "ESCORT AGENCY," "ESTABLISHMENT," "LICENSE," "NUDE MODEL STUDIO," "NUDITY/STATE OF NUDITY," "PERSON," "SEMI-NUDE/SEMI-NUDE CONDITION," "SEXUAL ENCOUNTER CENTER," "SEXUALLY ORIENTED BUSINESS," "SPECIFIED ANATOMICAL AREAS," "SPECIFIED CRIMINAL ACTIVITY," "SPECIFIED SEXUAL ACTIVITIES," "SUBSTANTIAL ENLARGEMENT," "TRANSFER OF OWNERSHIP OR CONTROL"; PROVIDING FOR CLASSIFICATION OF SEXUALLY ORIENTED BUSINESS; PROVIDING FOR A LICENSE REQUIREMENT; PROVIDING FOR THE ISSUANCE OF LICENSES; PROVIDING FOR FEES; PROVIDING FOR INSPECTION REQUIREMENT; PROVIDING FOR THE EXPIRATION OF LICENSES; PROVIDING THE SUSPENSION OF LICENSES; PROVIDING FOR THE REVOCATION OF LICENSES; PROVIDING FOR THE TRANSFER OF LICENSES; PROVIDING FOR THE LOCATION OF SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS; PROVIDING FOR ADDITIONAL REGULATIONS FOR ESCORT AGENCIES; PROVIDING FOR ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS; PROVIDING FOR ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY; PROVIDING FOR THE PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS; PROVIDING FOR THE HOURS OF OPERATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE PENALTY FOR VIOLATION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES AND THE SAVINGS OF ALL PENDING MATTERS; PROVIDING FOR THE EFFECTIVE DATE HEREOF.

THE TOWNSHIP OF SODUS ORDAINS:

SEXUALLY ORIENTED BUSINESSES

Section 1 PURPOSE

The purpose of this ordinance is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Sodus Township (hereinafter referred to as "Township"), and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by

adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

Section 2 DEFINITIONS

- A. "ADULT ARCADE" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas" (as herein defined).
- B. "ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE" means a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified Sexual Activities" or "specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- C. "ADULT CABARET" an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees.
- D. "ADULT MOTEL" means a hotel, motel or similar commercial establishment which:
1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

- E. "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- F. "EMPLOYEE" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- G. "ESCORT" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. "ESCORT AGENCY" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- I. "ESTABLISHMENT" means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 3. The additions of any sexually oriented business to any other existing sexually oriented business; or
 4. The relocation of any sexually oriented business.
- J. "LICENSEE" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- K. "NUDE MODEL STUDIO" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college or university supported

entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 3. Where no more than one nude or semi-nude model is on the premises at any one time.
- L. "NUDITY or a STATE OF NUDITY" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. Nudity or a state of nudity does not include the following:
1. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
 2. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
 3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.
- M. "PERSON" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- N. "SEMI-NUDE or in a SEMI-NUDE CONDITION" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part. "Semi-nude" or a state of "Semi-nude Condition" does not include the following:
1. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
 2. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.

3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.
- O. "SEXUAL ENCOUNTER CENTER" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- P. "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater or adult live stage performing theater, escort agency, nude model studio, or sexual encounter center.
- Q. "SPECIFIED ANATOMICAL AREAS" means portions of the human body defined as follows:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola, and
 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- R. "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:
1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault, molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
 2. For which:
 - (a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

- (c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the convictions are of two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.
- 3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.
- S. "SPECIFIED SEXUAL ACTIVITIES" The explicit display of one or more of the following:
 - 1. Human genitals in a state of sexual stimulation or arousal.
 - 2. Acts of human masturbation, sexual intercourse, or sodomy.
 - 3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- T. "SUBSTANTIAL ENLARGEMENT" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.
- U. "TRANSFER OF OWNERSHIP OR CONTROL" of a sexually oriented business means and includes any of the following:
 - 1. The sale, lease, or sublease of the business;
 - 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - 3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Section 3 CLASSIFICATION

- A. Sexually oriented businesses are classified as follows:
 - 1. Adult arcades;
 - 2. Adult bookstores, adult novelty stores, or adult video stores;
 - 3. Adult cabarets;
 - 4. Adult motels;

5. Adult motion picture theaters or adult live stage performing theaters;
6. Escort agencies;
7. Nude model studios; and
8. Sexual encounter centers.

Section 4 LICENSE REQUIRED

- A. It is unlawful:
1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Township pursuant to this ordinance.
 2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this ordinance.
 3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.
- B. An application for a license must be made on a form provided by the Township.
- C. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this ordinance.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.
- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is:
 - (a) An *individual*, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

- (b) A *partnership*, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - (c) A *corporation*, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.
 3. Whether the applicant, or a person residing with the applicant, has been convicted of a specific criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
 4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 5. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses.
 6. The single classification of license for which the applicant is filing.
 7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
 8. The applicant's mailing address and residential address.
 9. A recent photograph of the applicant(s).

10. The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.
 11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
 12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand (1,000) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 13. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videos cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 14.0.
- F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:
1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 2. Age, date, and place of birth;
 3. Height, weight, hair and eye color;
 4. Present residence address and telephone number;
 5. Present business and address and telephone number;
 6. Date, issuing state and number of driver's permit or other identification card information;
 7. Social Security number; and
 8. Proof that the individual is at least eighteen (18) years of age.

- G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant,
 2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other municipality, county or state has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
 3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each conviction.

Section 5 ISSUANCE OF LICENSE

- A. Upon the filing of said application for a sexually oriented business employee license, the Township shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Township departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within forty-five (45) days from the date the completed application is filed. After the investigation, the Township shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 2. The applicant is under the age of eighteen (18) years;
 3. The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;
 4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance;

5. The applicant has had a sexually oriented business employee license revoked by the Township within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 10.
- B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 6.
- C. Within forty-five (45) days after receipt of a completed sexually oriented business application, the Township shall approve or deny the issuance of a license to an applicant. The Township shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. An applicant is under eighteen (18) years of age.
 2. An applicant or a person with whom applicant is residing is overdue in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
 3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 4. An applicant or a person with whom the applicant is residing has been denied a license by the Township to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
 6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
 7. The license fee required by this ordinance has not been paid.
 8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

- D. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- E. The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within forty-five (45) days of receipt of the application by the Township.
- F. A sexually oriented business license shall issue for only one classification as found in Section 3.

Section 6 FEES

- A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee. The fee shall be set by resolution of the Township Board of Trustees.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Township an annual non-refundable license fee within thirty (30) days of license issuance or renewal. The license fee shall be set by resolution of the Township Board of Trustees.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation, and license fee; the amount of said fee shall be established by resolution of the Township Board of Trustees.
- D. All license applications and fees shall be submitted to the Clerk of the Township.

Section 7 INSPECTION

- A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Township departments or agents to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

Section 8 EXPIRATION OF LICENSE

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- B. When the Township denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Township finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

Section 9 SUSPENSION

- A. The Township shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
 1. Violated or is not in compliance with any section of this ordinance;
 2. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.

Section 10 REVOCATION

- A. The Township shall revoke a license if a cause of suspension in Section 9 occurs and the license has been previously suspended within the preceding twelve (12) months.
- B. The Township shall revoke a license if it determines that:
 1. A licensee gave false or misleading information in the material submitted during the application process;
 2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 3. A licensee has knowingly allowed prostitution on the premises;
 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

6. A licensee is delinquent in payment to the Township, County, or State for any taxes or fees past due.
- C When the Township revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Township finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
 - D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

Section 11 SUSPENSION OR REVOCATION HEARING; JUDICIAL REVIEW; TRANSFER OF LICENSE

On determining that grounds for license suspension or revocation exist, the Township shall furnish written notice of the proposed suspension or revocation to the licensee. Such notice shall set forth the time and place of a hearing to be conducted by a hearing officer appointed by the Township, the grounds upon which the hearing is based, the pertinent ordinance or code sections at issue, and a brief summary of the facts in support of the suspension or revocation. The notice shall be mailed, postage prepaid, to the last known address of the licensee, or shall be delivered to the licensee personally, at least ten (10) working days prior to the hearing date. At the hearing, all parties shall have a right to offer testimonial, documentary, and tangible evidence on the issues, may be represented by counsel, and shall have the right to confront and cross-examine witnesses. Any relevant evidence upon which reasonable persons are accustomed to rely in the conduct of serious matters may be admitted. Any hearing under this section may be continued for a reasonable time for the convenience of a party or witness.

Notice of the hearing officer's decision shall be mailed to the applicant or licensee no later than seven (7) days after the hearing. If the hearing officer finds and determines that there are grounds for disciplinary action, the Township shall suspend or revoke the license pursuant to this ordinance.

All decisions of the Township to issue, review, deny, suspend or revoke a license are final within thirty (30) calendar days. After any denial, or a suspension or revocation, the applicant or licensee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law. Notwithstanding the applicant's or licensee's right to initiate judicial review, the Township may, upon the written request of an aggrieved applicant or licensee, within five (5) business days of its receipt of the request, file an action with a court of competent jurisdiction seeking declaratory and injunctive relief, including temporary and preliminary relief, as to the propriety of the denial, revocation, or suspension.

If the Township denies an initial or renewal application and the aggrieved applicant either commences a legal action to determine the validity of the denial or makes a written request in the manner set forth

herein that the Township commence such action, then the Township may issue a temporary license. This temporary license shall remain in effect only until the court in which the action is pending renders a decision as to the propriety of the denial. Any temporary license issued pursuant to this section shall not grant any vested rights to the holder of the temporary license.

Section 12 TRANSFER OF LICENSE

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Section 13 LOCATION OF SEXUALLY ORIENTED BUSINESSES

- A. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within one thousand (1000) feet of:
1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not including facilities used primarily for another purpose and only incidentally as a school;
 3. A boundary of a residential district as defined in the Township Zoning Ordinance and Zoning Map;
 4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of the Township park and recreation authorities;
 5. The property line of a lot devoted to a residential use as defined in the Township Zoning Ordinance;
 6. An entertainment business which is oriented primarily towards children or family entertainment; or
 7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

- B. It shall be unlawful for any person to cause or permit the operation, the substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
- C. It shall be unlawful for any person to cause or permit the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- D. For the purpose of subsection A of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- E. For purposes of subsection B of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Section 14 ADDITIONAL REGULATIONS FOR ADULT MOTELS

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this ordinance.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.
- C. For purposes of subsection B of this Section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

Section 15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depict specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Township may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Township.
4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the licensee to ensure that the view area specified in subsection 5 remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this Section.
7. No viewing room may be occupied by more than one person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at the floor level.
 9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
 11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
 12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
 13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.
- B. A person having a duty under Subsection (1) through (14) of Subsection A above commits a misdemeanor if he knowingly fails to fulfill that duty.

Section 16 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

Section 17 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

- A. A nude model studio shall not employ any person under the age of eighteen (18) years.
- B. It shall be unlawful for any person under the age of eighteen (18) years to appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.
- C. It shall be unlawful for any person to appear in a state of nudity, or to knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

- D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

Section 18 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY

- A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
- B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.
- C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

Section 19 PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

It shall be unlawful for any person to knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

Section 20 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and noon (12:00) p.m. on Sundays.

Section 21 EXEMPTIONS

- A. It is a defense to prosecution under Section 17 that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school, licensed by the State of Michigan; a college, junior college, or university supported entirely or partly by taxation;
 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

3. In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one nude model is on the premises at any one time.

Section 22 PENALTY

Any person, corporation, partnership or any other legal entity who violates the provisions of this Ordinance shall be guilty of a misdemeanor and may be fined not more than Five Hundred Dollars (\$500.00) and/or imprisoned for not more than ninety (90) days, or both, in the discretion of the Court.

Section 23 REPEAL

All other Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 24 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section 25 SAVINGS CLAUSE

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance, as amended.

Section 26 EFFECTIVE DATE

This Ordinance, as amended, shall take full force and effect upon publication.

I hereby certify that the foregoing is a true and correct copy of the Sexually Oriented Businesses Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 25 day of April, 2006.

Virginia Palis, Clerk

A motion that said Sexually Oriented Businesses Ordinance be enacted was made by Bennett and supported by Peters at a regular meeting of the Sodus Township Board on the 25th day of April, 2006.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u> x </u>	<u> </u>
Virginia Palis	<u> x </u>	<u> </u>
Karen Morgan	<u> x </u>	<u> </u>
Marie Grajauskis	<u> x </u>	<u> </u>
Kenneth Peters	<u> x </u>	<u> </u>

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Sodus Township Board at a meeting held on the 25 day of April, 2006, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 167 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: April 25, 2006

Virginia Palis, Clerk

I hereby certify that the complete text or a summary of the foregoing Ordinance was published in the Herald-Palladium, St. Joseph, Michigan, on _____, 2006.

Virginia Palis, Clerk

ILLCIT DISCHARGE
AND
CONNECTION ORDINANCE
ORDINANCE NO. 28

SODUS, TOWNSHIP, MICHIGAN

FTC&H

JUNE 2004

ADOPTED OCTOBER 11, 2005

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AN ORDINANCE to regulate non-storm water discharges to the storm water drainage system to the maximum extent practicable as required by federal and state law; to establish methods for controlling the introduction of pollutants into the storm water drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; to provide for payment or reimbursement of costs and expenses incurred by the township associated with noncompliance; to provide for the inspection, sampling, and monitoring of storm water and other discharges; and to provide penalties for violations of the ordinance

The township (Sodus Township) ordains:

ARTICLE I GENERAL

SECTION 1.01 STATUTORY AUTHORITY AND TITLE

This Ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq. (for township and villages, cite proper statute); the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act as amended, being MCL 560.1 et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33USC 1342(p) and 40 CFR parts 9, 122, 123, and 124; and other applicable state and federal laws.

The township shall administer, implement, and enforce the provisions of the ordinance. Any powers granted, or duties imposed, upon the township may be delegated in writing by the supervisor of the township to persons or entities acting in the beneficial interest of, or in the employ of the township.

SECTION 1.02 FINDINGS

The township finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the township, thus threatening the health, safety, and welfare of the citizenry.
- (2) Illicit discharges enter the storm water drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this Ordinance and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) Any condition caused or permitted to exist in violation of any of the provisions of this

Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

SECTION 1.03 PURPOSE

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the storm water drainage system and water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connections to the storm water drainage system and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.
- (4) To provide appropriate remedies for failure to comply with this Ordinance.

SECTION 1.04 APPLICABILITY AND GENERAL PROVISIONS

This Ordinance shall apply to all discharges entering the storm water drainage system and water bodies generated on any developed and undeveloped lands.

SECTION 1.05 DEFINITIONS

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized Enforcement Agency: The township, and/or any persons or agencies designated to act as the Authorized Enforcement agency by the township.

Best Management Practices (BMPs): Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) shall be as determined by the township Engineer.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated there after.

Discharge: means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a storm water drainage system or water

body.

Discharger: Any person who directly or indirectly discharges storm water from any premises. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this Ordinance.

Drain: Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainage way: A drain, water body, or floodplain.

EPA: The U.S. Environmental Protection Agency (EPA).

Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water that has been or may be covered by floodwater.

Hazardous Materials: Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connection: Any method, means, or conduit for conveying an illicit discharge into a water body or a storm water drainage system.

Illicit Discharge: Any discharge to a water body or a storm water drainage system that does not consist entirely of storm water, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this Ordinance.

MDEQ: Michigan Department of Environmental Quality.

National Pollutant Discharge Elimination System (NPDES) Permit: A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

Non-Storm Water Discharge: Any discharge to the storm water drainage system or a water body that is not composed entirely of storm water.

Person: An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

Pollutant: The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.

Premises: Any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

Property Owner: Any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.

State of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

Storm Water Drainage System: Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying storm water.

Storm Water Pollution Prevention Plan: A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm water drainage system, and/or a water body to the maximum extent practicable.

Storm Water Runoff(or Storm Water): The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Toxic Material: Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

Water Body: A river, lake, stream, creek, or other watercourse or wetlands.

ARTICLE II PROHIBITIONS AND AUTHORIZATIONS

SECTION 2.01 PROHIBITE DISCHARGES

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a storm water drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a storm water drainage system or water body.
- (2) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (3) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, using Storm Water Pollution Prevention Plans and BMPs, as determined necessary by the Authorized Enforcement Agency to prevent or reduce the discharge of pollutants to a storm water drainage system or water body.
- (4) The discharge prohibitions of this section shall not apply to any non-storm water discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water drainage system.

SECTION 2.02 PROHIBITED ILLICIT CONNECTIONS

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Ordinance, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

SECTION 2.03 AUTHORIZED DISCHARGES

The following non-storm water discharges are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

- (1) Water supply line flushing.
- (2) Landscape irrigation runoff.
- (3) Diverted stream flows.
-) Rising groundwater.

- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Irrigation water.
- (11) Springs.
- (12) Water from crawl space pumps.
- (13) Footing drains and basement sump pumps.
- (14) Lawn watering runoff.
- (15) Waters from non-commercial car washing.
- (16) Flows from riparian habitats and wetlands.
- (17) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.
- (18) Residual street wash water.
- (19) Discharges or flows from emergency fire fighting activities.
- (20) Discharges specifically authorized in writing by the Authorized Enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

SECTION 2.04 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGEWAY

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainage way, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system or water body.

ARTICLE III INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING

SECTION 3.01 INSPECTIONS AND SAMPLING

The Authorized Enforcement Agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow properly identified representatives of the Authorized Enforcement Agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this Ordinance.

SECTION 3.02 STORM WATER MONITORING FACILITIES

If directed in writing to do so by the Authorized Enforcement Agency, a discharger of storm water runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water drainage system, as specified by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

SECTION 3.03 ACCIDENTAL DISCHARGES

Any discharger who accidentally discharges into a storm water drainage system or a water body any substance other than storm water or an authorized discharge shall immediately notify the Authorized Enforcement Agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within 5 days. The written report shall specify all of the following:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (30) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different)

the individual who may be contacted for additional information regarding the discharge.

SECTION 3.04 RECORD KEEPING REQUIREMENT

Any person that violates any requirement of this Ordinance or that is subject to monitoring under this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any premises connected with the violation or subject to monitoring.

ARTICLE IV ENFORCEMENT

SECTION 4.01 SANCTIONS FOR VIOLATION

- (1) Violation; Municipal Civil Infraction. Except as provided by Section 4.01(6), and notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary, a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than **[\$1,000]** per day for each infraction and not more than **[\$10,000]** per day for each infraction, plus costs and other sanctions.
- (2) Repeat offenses; increased fines. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
 - (a) The fine for any offense that is a first repeat offense shall be not less than **[\$2,500]**, plus costs.
 - (b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than **[\$5,000]**, plus costs.
- (3) Amount of Fines. Subject to the minimum fine amounts specified in Sections 4.01(2)(a) and 4.01(2)(a), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and

terminate all violations.

- (4) Authorized Local Official. Notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the (city's, village's, township's) Municipal Violations Bureau, as applicable) for violations of this Ordinance (in addition to any other persons so designated by the Authorized Enforcement Agency): the supervisor; [specify others as applicable], and any police officer.
- (5) Other Requirements and Procedures. Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or, pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.
- (6) Any person who (1) at the time of a violation know or should have knows that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in any application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.
- (7) Any person who aids or abets another person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

SECTION 4.02 FAILURE TO COMPLY; COMPLETION

The Authorized Enforcement Agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this Ordinance or damage or impairment to the storm water drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid by the Authorized Enforcement Agency under other sections of this Ordinance.

SECTION 4.03 EMERGENCY MEASURES

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the township for all of such costs.

SECTION 4.04 COST RECOVERY FOR DAMAGE TO STORM WATER DRAINAGE SYSTEM

Any person who discharges to a storm water drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction or otherwise damages or impairs a storm water drainage system, or causes or contributes to a violation of any federal, state, or local law governing the township, shall be liable to and shall fully reimburse the township for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the township as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be reimbursed to the township shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the township in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (2) All costs to the township of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, incueing natural resource damages, levied against the township, or any township representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.
- (4) The full value of any township staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the township legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this Ordinance.

SECTION 4.05 COLLECTION OF COSTS; LIEN

- (1) Costs incurred by the township pursuant to Sections 4.02, 4.03, 4.04, and 4.06(1) shall constitute a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or otherwise authorized by law. Any such charges that are delinquent for 6 months or more may be certified annually to the township Treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the township as provided by this Ordinance shall constitute an additional violation of this Ordinance.

SECTION 4.06 SUSPENSION OF ACCESS TO THE STORM WATER DRAINAGE SYSTEM

- (1) Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water drainage system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm water drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the township in taking such steps.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the storm water drainage system in violation of this Ordinance may have their access to the system terminated, if the Authorized Enforcement Agency determines that such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the storm water drainage system to a premises terminated pursuant to this section without the prior written approval of the Authorized Enforcement Agency.

SECTION 4.07 APPEALS

Any person to whom any provision of this Ordinance has been applied may appeal in writing to the township, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The board shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the board may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the board may grant a temporary variance

From the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the Ordinance provisions being appealed will present or cause unnecessary hardship for the person appealing, provided, however, that unnecessary hardship shall not include the need for a property owner to incur additional reasonable expenses in order to comply with the Ordinance; and
- (2) The grant of the relief requested will not prevent accomplishment of the goals and purposes of this Ordinance, nor result in less effective management of storm water runoff.

SECTION 4.08 JUDICIAL RELIEF

With the approval of the township, the Authorized Enforcement Agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity that a court may order. The Authorized Enforcement Agency may also seek collection of fines, penalties and any other amounts due to the township that a person has not paid.

SECTION 4.09 CUMULATIVE REMEDIES

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued, or entered into under this Ordinance, shall not preclude the imposition by the township, the Authorized Enforcement Agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

ARTICLE V PERFORMANCE AND DESIGN STANDARDS

SECTION 5.01 RESPONSIBILITY TO IMPLEMENT BMPS

The owner or operator of a premises used for commercial or industrial purposes shall provide, at the owner or operator's own expense, reasonable protection from a accidental discharge of prohibited materials or other wastes into the storm water drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm water drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent, practicable, shall be deemed compliance with the provisions of this section.

ARTICLE VI OTHER MATTERS

SECTION 6.01 INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except those words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings.

SECTION 6.02 CATCH-LINE HEADINGS

The catch-line headings of the articles and sections of this Ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

SECTION 6.03 SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable, and if any part or provision of this Ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of this Ordinance.

SECTION 6.04 OTHER ORDINANCES

This Ordinance shall be in addition to other ordinances of the township and shall not be deemed to repeal or replace other ordinances, or parts thereof; provided that in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance, the provisions of this Ordinance shall control.

SECTION 6.05 EFFECTIVE DATE

This Ordinance shall become effective November 25, 05 following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

This Ordinance was adopted 10-11-05, by the Sodus Township Board and made

effective

Clerk

Virginia Palis

ORDINANCE NO: 29

Telecommunications Ordinance

SECTION 1

PURPOSE

The purposes of this Ordinance are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act"), as amended and other applicable law, and to ensure the Township of Sodus qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

SECTION 2

CONFLICT

Nothing in this Ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

SECTION 3

TERMS DEFINED

The terms used in this Ordinance shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of Way Oversight Act (Act no. 48 of the Public Acts of 2002), as amended.¹

Sodus means the Township of Sodus.

City Council or Commission or other body means the [COUNCIL, BOARD, COMMISSION, ETC.] of the Township of Sodus or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the City, Village, or Township.

City Manager, Village Manager, Township Supervisor, Township Code Enforcer, etc. means that official or his or her designee.

¹ A copy of the Act can be obtained via Internet: <http://www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm>

Permit means a non-exclusive permit issued pursuant to the Act and this Ordinance to a telecommunications provider to use the public rights-of-way in Sodus for its telecommunications facilities.

All other terms used in this Ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication Facilities or Facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications Provider, Provider and Telecommunications Services mean those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this Ordinance only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (c) A person providing broadband internet transport access service.

SECTION 4

PERMIT REQUIRED

(a) *Permit Required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in Sodus for its telecommunications facilities shall apply for and obtain a permit pursuant to this Ordinance.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the Act. A telecommunications provider shall file one copy of the application with Township Clerk, one copy with the Supervisor, and one copy with the Township Attorney. Upon receipt, the Township Clerk shall make copies of the application and distribute a copy to [additional recipients required]. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.²

(c) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 14.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application Fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(e) *Additional Information.* The Sodus Township Board may request an applicant to submit such additional information which the Sodus Township Board deems reasonable necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Supervisor. If Sodus and the applicant cannot agree on the requirement of additional information requested by Sodus, Sodus or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) *Previously Issued Permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by Sodus Township under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by Sodus Township to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this Ordinance.

(g) *Existing Providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002 the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in Sodus Township as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to Sodus Township an application for a permit in accordance with the requirements of this Ordinance. Pursuant to section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority as provided in Section 5(4) of the Act.

²A copy of the application form as approved by the Commission can be obtained on the internet at <http://www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm>.

**SECTION 5
ISSUANCE OF PERMIT**

(a) *Approval or Denial.* The authority to approve or deny an application for a permit is hereby delegated to the Sodus Township Board. Pursuant to Section 15(3) of the Act, the Township Board shall approve or deny an application for a permit under Section 4(b) of this Ordinance for access to a public right-of-way within Sodus Township. Pursuant to Section 6(6) of the Act, the Sodus Township Supervisor shall notify the MPSC when the Township Board has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Sodus Township Board shall not unreasonably deny an application for a permit.

(b) *Form of Permit.* If an application for permit is approved the Sodus Township Board shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2), and 15 of the Act.³

(c) *Conditions.* Pursuant to Section 15(4) of the Act, the Sodus Township Board may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Sodus Township Board may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

**SECTION 6
CONSTRUCTION/ENGINEERING PERMIT**

A telecommunication provider shall not commence construction upon, over, across, or under the public rights-of-way in Sodus Township without first obtaining a construction or engineering permit as required by Sodus Township Ordinances for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

**SECTION 7
CONDUIT OR UTILITY POLES**

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this Ordinance does not give a telecommunications provider a right to use conduit or utility poles.

³ Copies of the permit forms currently approved by the MPSC can be obtained on the internet at <http://www.cis.state.m.us/mpsc/comm/rightofway/rightofway.htm>.

**SECTION 8
ROUTE MAPS**

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in Sodus Township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to Sodus Township. The route maps should be in [paper or electronic] format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

**SECTION 9
REPAIR OF DAMAGE**

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in Sodus Township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

**SECTION 10
ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE**

In addition to the non-refundable application fee paid to Sodus Township, set forth in subsection 4(d) above, a telecommunications provider with telecommunications facilities in Sodus Township's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

**SECTION 11
MODIFICATION OF EXISTING FEES**

In compliance with the requirements of Section 13(1) of the Act, Sodus Township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, Sodus Township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within Sodus Township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. Sodus Township shall provide each telecommunications provider affected by the fee with a copy of this Ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to Sodus Township's policy and intent, and upon application by a provider or discovery by Sodus Township, shall be promptly refunded as having been charged in error.

**SECTION 12
SAVINGS CLAUSE**

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 11 above shall be void from the date the modification was made.

**SECTION 13
USE OF FUNDS**

Pursuant to Section 10(4) of the Act, all amounts received by Sodus Township from the Authority shall be used by Sodus Township solely for rights-of-way related purposes. Depositing the amounts received into the Major Street Fund and/or Local Street Fund, maintained by Sodus Township under Act No. 51 of the Public Acts of 1951, would help ensure compliance with this requirement of the Act.

[Note: If a city elects a different method of accounting for the amounts received, it should seek professional accounting or Department of Treasury advice on a proper accounting method to use, as well as advice on rights-of-way related purposes that are generally recognized as being appropriate.]

**SECTION 14
ANNUAL REPORT**

Pursuant to Section 10(5) of the Act, Sodus Township shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

**SECTION 15
CABLE TELEVISION OPERATORS**

Pursuant to Section 13(6) of the Act, Sodus Township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

**SECTION 16
EXISTING RIGHTS**

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this ordinance shall not affect any existing rights that a telecommunications provider or Sodus Township may have under a permit issued by Sodus Township or under a contract between Sodus Township and a telecommunications provider related to the use of the public rights-of-way.

SECTION 17 COMPLIANCE

Sodus Township hereby declares that its policy and intent in adopting this Ordinance is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. Sodus Township shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this Ordinance;
- (b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 4(f) of this ordinance;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this Ordinance;
- (d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within Sodus Township, in accordance with Section 5(a) of this Ordinance;
- (e) Notifying the MPSC when Sodus Township has granted or denied a permit, in accordance with Section 5(a) of this Ordinance;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 5(a) of this Ordinance;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) of this Ordinance;
- (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 5(d) of this Ordinance;
- (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 5(d) of this Ordinance;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 6 of this ordinance;
- (k) Providing each telecommunications provider affected by Sodus Township's right-of-way fees with a copy of this Ordinance, in accordance with Section 11 of this Ordinance;
- (l) Submitting an annual report to the Authority, in accordance with Section 14 of this Ordinance; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 15 of this Ordinance

SECTION 18 RESERVATION OF POLICE POWERS

Pursuant to Section 15(2) of the Act, this ordinance shall not limit Sodus Township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit Sodus Township's authority to ensure and protect the health, safety, and welfare of the public.

SECTION 19 SEVERABILITY

The various parts, sentences, paragraphs, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this Ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this Ordinance.

SECTION 20 AUTHORIZED CITY OFFICIALS

The Sodus Township Code Enforcer or his or her designee is hereby designated as the authorized Sodus Township official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to contact the Sodus Township Code Enforcer) for violations under this Ordinance as provided by the Sodus Township Code.

SECTION 21 PENALTIES

Any person who violates a provision of this Ordinance or the terms or conditions of a permit shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof, shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs. Each day that a violation occurs shall be considered a separate violation. The issuance of a citation for a municipal civil infraction shall not in any way limit Sodus Township in seeking enforcement of the provisions of this Ordinance, including, but not limited to requesting a civil restraining order from any court of competent jurisdiction.

SECTION 22 REPEALER

All ordinances and portions of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 23 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its publication in the manner provided by law.

NOW, THEREFORE, it is hereby

RESOLVED, that Sodus Township is hereby authorized and directed to identify all telecommunication providers holding permits or authorizations issued by [Sodus Township and, as part of that process, to compile a list of all telecommunication providers who have paid fees to Sodus Township since 1990, all telecommunications providers identified in Sodus engineering or construction permit files and all regulated telephone inter-exchange carriers and competitive access providers listed on the web site of the Michigan Public Service Commission and all regulated local telephone companies licensed in Michigan listed on such web site];

FURTHER RESOLVED, that the Sodus Township Board is hereby authorized and directed to provide a copy of the Ordinance to the cable company[ies] providing service in Sodus Township and to all telecommunications providers identified above, in satisfaction of the requirements of Section 13(4) of the Act; and

FURTHER RESOLVED, that the finance department of Sodus Township is hereby directed to return, to telecommunication providers, any checks or portion of checks received by Sodus Township from such providers for access and usage of the public rights-of-way in Sodus Township after November 1, 2002 (other than the \$500 application fee allowed under the Act and any fees or funds received from the METRO Authority).

ADOPTED this 27th day of June, 2006

<u>NAME</u>	<u>YES</u>	<u>NO</u>
Michele Bennett	X	
Virginia Palis	X	
Karen Morgan	X	
Marie Grajauskis	X	
Kenneth Peters	X	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of resolution as adopted by Sodus Township of Berrien County, Michigan at a meeting held on the 27th day of June 2006, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for meeting

June 27, 2006
Dated

Virginia Palis
Virginia Palis, Clerk
Sodus Township.

SODUS TOWNSHIP
ORDINANCE NO. 30

Adopted: November 25, 2008

Published: December 6, 2008

Effective: Immediately upon publication after adoption

Authority.

An ordinance to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sodus Township Planning Commission; provide for the composition of that planning commission; provide for the powers, duties and limitations of that planning commission; and repeal any ordinance or parts of ordinances or resolutions in conflict with this ordinance.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1: Scope, Purpose and Intent.

This ordinance is adopted pursuant to the authority granted the Township Board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan zoning Enabling Act, Public act 110 of 2006, MCL 125.3101, et seq., to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this ordinance.

The purpose of this ordinance is to provide that the Sodus Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sodus Township Planning Commission formerly established under the Township Planning Act Public Act 168 of 1959, MCL 125.321, et seq.; to establish the appointments, terms, and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

Section 2: Establishment

The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sodus Township Planning Commission formerly established under the Township Planning Act, Act 168 of 1959, MCL 125.321, et seq.. The Sodus Township Planning Commission shall have seven (7) members. Members of the Sodus Township Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership set forth within the Michigan Planning Enabling Act, Public Act 22 of 2008, MCL 125.3801, et seq.

Section 3: Appointments and Terms

The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member.

The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each.

A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning Commission members shall be qualified electors of the Township, except that one Planning Commission member may be an individual who is not a qualified elector of the Township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable.

One member of the Township Board shall be appointed to the Planning Commission as an ex officio member.

An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Township Board.

No other elected officer or employee of the Township is eligible to be a member of the Planning Commission.

Section 4: Removal

The Township Board may remove a member of the Planning Commission for malfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Section 5: Conflict of Interest

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office.

For the purposes of this section, conflict of interest is defined as, and a Planning Commission member shall declare a conflict of interest and abstain from participating in Planning Commission deliberations and voting on a request, when:

(a) An immediate family member is involved in any request for which the Planning

Commission is asked to make a decision. "Immediate family member" is defined as an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.

(b) The Planning Commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association.

(c) The Planning Commission member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application or propose development, as required by the zoning ordinance or other applicable ordinance.

(d) There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the Planning Commission.

Section 6: Compensation

The Planning Commission members may be compensated for their services as provided by Township Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

Section 7: Officers and Committees

The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the Planning Commission bylaws.

The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

Section 8: Bylaws, Meetings and Records

The Planning Commission shall adopt bylaws for the transaction of business.

The Planning Commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting.

The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meeting Act, Public Act 267 of 1976, MCL 15.261, et seq., except that the notice of a special meeting to Planning Commission members shall be at least 48 hours before the meeting.

The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.2231, et seq.

Section 9: Annual Report

The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development.

Section 10: Authority to Make Master Plan

Under the authority of the Michigan Planning Enabling Act, Public Act 35 of 2008, MCL 125.13801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the Township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve or reject the master plan.

Section 11: Zoning Powers

The Township Board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq., the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., or other applicable zoning statutes to the Sodus Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.

Section 12: Capital Improvements Program

To further the desirable future development of the Township under the master plan, the Planning Commission, after the master plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.

Section 13: Subdivision and Land Division Recommendations

The Planning Commission may recommend to the Township Board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The

Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the Township.

The Planning commission shall review and make recommendation on a proposed plat before action thereon by the Township Board under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land

Section 14: Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect.

Section 15: Repeal.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Sodus Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., is hereby repealed

Section 16: Effective Date.

This ordinance shall take effect on the date of its publication.

A motion that said Ordinance under Michigan Planning Enabling Act be enacted was made by Michele Bennett and supported by Ken Peters at a regular meeting of the Sodus Township Board on the 25th day of November, 2008.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	X	
Virginia Palis	X	
Karen Morgan	X	
Marie Grajanskis	X	
Kenneth Peters	X	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Sodus Township Board at a meeting held on the 25th day of November, 2008, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meeting Act, Act No. 167 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: November 25, 2008

Virginia Palis, Township Clerk

I hereby certify that a summary of the foregoing Ordinance was published in the Herald Palladium, St. Joseph, Michigan, on the 6th day of December, 2008

Virginia Palis, Township Clerk

SODUS TOWNSHIP

ORDINANCE NO. 31

Adopted March 8, 2011
(Effective April 29, 2011)

Dangerous or Unsafe Building Ordinance

An ordinance to promote the health, safety and welfare of the people of Sodus Township by regulating the maintenance, alteration and improvement of buildings or structures; to provide for the demolition of dangerous and unsafe buildings and the enforcement of the ordinance, and to establish remedies and fix penalties for the violation thereof; and to repeal all existing Township ordinances in conflict herewith.

The Township of Sodus, Berrien County, Michigan, ordains:

Section 1. Unlawful Conduct. It shall be unlawful for any owner, occupant or agent thereof to keep or maintain any building or part thereof which is a dangerous or unsafe building as defined in Section 2 of this ordinance.

Section 2. Definition. As used in this ordinance, "dangerous building" means any building or structure that has any one or more of the following defects or is in any one or more of the following conditions:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the Township, it shall be considered that such a building or structure does not meet the requirements of this ordinance.
- (b) Whenever any portion of a building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or any other cause in such a manner that the structural strength or stability is appreciably less than it was before such event and is less than the minimum requirements of any Township ordinance or state law for a new building or similar structure, purpose or location.
- (c) Whenever any part of a building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or property damage.
- (d) Whenever any portion of the building or structure has settled to the extent that the walls or other structural portions of the building have materially less resistance to wind than is required in the case of new construction by this ordinance or the building ordinance of the Township where the building is located.

- (e) Whenever a building or structure, or part of a building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for support or for any other reason is likely to partially or completely collapse or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (f) Whenever for any reason the building, structure, or part thereof is manifestly unsafe for the purpose which it is used or intended to be used.
- (g) Whenever the building or structure is damaged by fire, wind or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or enables persons to resort to the building or structure for committing a nuisance or other unlawful or immoral act.
- (h) Whenever a building or structure used or intended to be used, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease or is likely to injure the health, safety or general welfare of people living in the dwelling.
- (i) Whenever any building becomes vacant, dilapidated, and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

Section 3. Notice.

- (a) Notwithstanding any other provision of this ordinance, if any building or structure is found to be in a dangerous or unsafe condition, the Township building inspector, building official, supervisor or other person with authority shall issue a notice of dangerous or unsafe building.
- (b) The notice shall be served on the owner, agent or occupant. The owner shall include any party in interest in the building or structure in whose name the property appears on the last Township tax assessment record.
- (c) The notice shall specify the date, time and place of a hearing on whether the building or structure is a dangerous or unsafe building or structure, at which time and place the person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, or otherwise made safe.

Section 4. Hearing Officer. A hearing officer shall be appointed by the Township Supervisor to serve at his or her pleasure. The hearing officer shall be a person other than an employee of the Township who has expertise in construction, building and structural

requirements. A copy of the notice of dangerous and unsafe condition shall be filed with the hearing officer.

Section 5. Service of Notice. All notices shall be in writing and shall be served on the person to whom the notice is directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

Section 6. Hearing.

- (a) The hearing officer shall take testimony and evidence presented by the enforcing Township officials, the owner of the property and any interested party. The hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished or otherwise made safe.
- (b) If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, the hearing officer shall enter an order that specifies what action the owner, agent or occupant shall take and set a date by which the owner, occupant or agent shall comply with the order.

Section 7. Failure to Comply. If the owner, occupant or agent fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of the findings and a copy of his order with the Township Board not more than five (5) days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent or occupant in the manner prescribed in Section 5.

Section 8. Township Board Hearing. The Township Board shall set a date not less than thirty (30) days after the hearing prescribed in Section 6 for a hearing on the findings and order of the hearing officer. The Township Board shall give notice to the owner, agent or occupant in the manner prescribed in Section 5 of the date, time and place of the hearing. At the hearing, the owner, agent or occupant shall be given an opportunity to show cause why the order should not be enforced. The Township Board shall either approve, disapprove, or modify the order. If the Township Board modifies the order, it shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or occupant shall comply with the order within sixty (60) days of the hearing before the Township Board.

Section 9. Costs of Demolition. The costs of the demolition or making the building safe include, but is not limited to, fees paid to the hearing officer, costs of title searches or commitments used to determine the parties in interest, recording fees for notices, and liens filed with the County Register of Deeds, demolition and dumping charges, court reporter

attendance fees, and costs of the collection of charges authorized under this ordinance. The costs of the demolition incurred by the Township or to bring the property into conformance with this ordinance shall be reimbursed to the Township by the owner, agent or occupant in whose name the property appears.

Section 10. Notice of Costs. The owner or party in interest in whose name appears upon the last local tax assessment records shall be notified of the amount of the costs by first class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing of the notice of the amount thereof, the Township assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided for property tax liens under the General Property Tax Act, 1893 P.A. 206, MCL 2.11.1 to 2.11.157.

Section 11. Judicial Review. An owner or party in interest aggrieved by any final decision or order of the Township Board may appeal the decision to the Berrien County Trial Court within twenty-eight (28) days after the date of service upon such owner or party in interest of a copy of such decision or order as provided in this ordinance.

Section 12. Penalties for Violation. A person who fails or refuses to comply with an order approved or modified by the Township Board under this ordinance within the time prescribed by that section is responsible for a civil infraction punishable by a civil fine of not more than \$500.

Section 13. Authority. This ordinance is enacted according to the statutes and laws of the state of Michigan including, but not limited to, the provisions of Public Act 1945, No. 246 (MCL 41.181 *et seq*) and Public Act 1917, No. 167, as amended (MCL 125.401 *et seq*).

Section 14. Conflicting Ordinances. Any ordinances or parts of ordinances in conflict hereof are hereby repealed.

Section 15. Other Remedies. The foregoing remedies and penalties are in addition to all other rights and powers of the Township to proceed at law or equity with other and additional appropriate remedies against assets of the owner other than the building or structure at issue.

Section 16. Validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 17. Effective Date. This Ordinance shall take effect on the 29th day of April, 2011.

A motion that said the foregoing Ordinance be adopted was made by Michelle Bennett and supported by Ken Peters at a regular meeting of the Sodus Township Board on the 8th day of March, 2011.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u>X</u>	_____
Virginia Palis	<u>X</u>	_____
Karen Morgan	<u>X</u>	_____
Marie Grajauskis	<u>X</u>	_____
Kenneth Peters	<u>X</u>	_____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the Dangerous or Unsafe Building Ordinance adopted by the Sodus Township Board at a meeting held on the 8th day of March, 2011, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: March 8 2011

Virginia Palis
Virginia Palis, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the Journal Era, Michigan, on the 30 day of March, 2011.

Virginia Palis
Virginia Palis, Township Clerk



Sodus Township

4056 King Drive • PO Box 176 • Sodus, Michigan 49126


Telephone (269) 926-6285 Fax (269) 926-1825

ORDER OF APPOINTMENT OF HEARING OFFICER PURSUANT TO MCL 125.540

KNOW ALL MEN BY THESE PRESENTS AS FOLLOWS:

1. My name is Michele Bennett, and I am the duly elected and serving Supervisor of Sodus Township in Berrien County, Michigan.
2. Pursuant to the Dangerous or Unsafe Building Ordinance adopted by Sodus Township March 8, 2011, and pursuant to Michigan law, David Dent, the Township Ordinance Enforcement officer, has found the building at 6132 River Road, Sodus Township, Berrien County, Michigan, to be a dangerous and unsafe building as defined at MCL 125.539 and the Ordinance.
3. NOW THEREFORE, pursuant to MCL 125.540 and the Ordinance, Cecil Derringer is found to be qualified as an expert in housing and building matters, and is appointed hearing officer and authorized to proceed by law on behalf of Sodus Township.

Dated: May 24, 2011



Michele Bennett, Supervisor

SODUS TOWNSHIP

ORDINANCE NO. 31

Adopted March 8, 2011
(Effective April 29, 2011)

Dangerous or Unsafe Building Ordinance

An ordinance to promote the health, safety and welfare of the people of Sodus Township by regulating the maintenance, alteration and improvement of buildings or structures; to provide for the demolition of dangerous and unsafe buildings and the enforcement of the ordinance, and to establish remedies and fix penalties for the violation thereof, and to repeal all existing Township ordinances in conflict herewith.

The Township of Sodus, Berrien County, Michigan, ordains:

Section 1. Unlawful Conduct. It shall be unlawful for any owner, occupant or agent thereof to keep or maintain any building or part thereof which is a dangerous or unsafe building as defined in Section 2 of this ordinance.

Section 2. Definition. As used in this ordinance, "dangerous building" means any building or structure that has any one or more of the following defects or is in any one or more of the following conditions:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the Township, it shall be considered that such a building or structure does not meet the requirements of this ordinance.
- (b) Whenever any portion of a building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or any other cause in such a manner that the structural strength or stability is appreciably less than it was before such event and is less than the minimum requirements of any Township ordinance or state law for a new building or similar structure, purpose or location.
- (c) Whenever any part of a building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or property damage.
- (d) Whenever any portion of the building or structure has settled to the extent that the walls or other structural portions of the building have materially less resistance to wind than is required in the case of new construction by this ordinance or the building ordinance of the Township where the building is located.

- (e) Whenever a building or structure, or part of a building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for support or for any other reason is likely to partially or completely collapse or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (f) Whenever for any reason the building, structure, or part thereof is manifestly unsafe for the purpose which it is used or intended to be used.
- (g) Whenever the building or structure is damaged by fire, wind or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or enables persons to resort to the building or structure for committing a nuisance or other unlawful or immoral act.
- (h) Whenever a building or structure used or intended to be used, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease or is likely to injure the health, safety or general welfare of people living in the dwelling.
- (i) Whenever any building becomes vacant, dilapidated, and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

Section 3. Notice.

- (a) Notwithstanding any other provision of this ordinance, if any building or structure is found to be in a dangerous or unsafe condition, the Township building inspector, building official, supervisor or other person with authority shall issue a notice of dangerous or unsafe building.
- (b) The notice shall be served on the owner, agent or occupant. The owner shall include any party in interest in the building or structure in whose name the property appears on the last Township tax assessment record.
- (c) The notice shall specify the date, time and place of a hearing on whether the building or structure is a dangerous or unsafe building or structure, at which time and place the person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, or otherwise made safe.

Section 4. Hearing Officer. A hearing officer shall be appointed by the Township Supervisor to serve at his or her pleasure. The hearing officer shall be a person other than an employee of the Township who has expertise in construction, building and structural

requirements. A copy of the notice of dangerous and unsafe condition shall be filed with the hearing officer.

Section 5. Service of Notice. All notices shall be in writing and shall be served on the person to whom the notice is directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

Section 6. Hearing.

- (a) The hearing officer shall take testimony and evidence presented by the enforcing Township officials, the owner of the property and any interested party. The hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished or otherwise made safe.
- (b) If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, the hearing officer shall enter an order that specifies what action the owner, agent or occupant shall take and set a date by which the owner, occupant or agent shall comply with the order.

Section 7. Failure to Comply. If the owner, occupant or agent fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of the findings and a copy of his order with the Township Board not more than five (5) days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent or occupant in the manner prescribed in Section 5.

Section 8. Township Board Hearing. The Township Board shall set a date not less than thirty (30) days after the hearing prescribed in Section 6 for a hearing on the findings and order of the hearing officer. The Township Board shall give notice to the owner, agent or occupant in the manner prescribed in Section 5 of the date, time and place of the hearing. At the hearing, the owner, agent or occupant shall be given an opportunity to show cause why the order should not be enforced. The Township Board shall either approve, disapprove, or modify the order. If the Township Board modifies the order, it shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or occupant shall comply with the order within sixty (60) days of the hearing before the Township Board.

Section 9. Costs of Demolition. The costs of the demolition or making the building safe include, but is not limited to, fees paid to the hearing officer, costs of title searches or commitments used to determine the parties in interest, recording fees for notices, and liens filed with the County Register of Deeds, demolition and dumping charges, court reporter

attendance fees, and costs of the collection of charges authorized under this ordinance. The costs of the demolition incurred by the Township or to bring the property into conformance with this ordinance shall be reimbursed to the Township by the owner, agent or occupant in whose name the property appears.

Section 10. Notice of Costs. The owner or party in interest in whose name appears upon the last local tax assessment records shall be notified of the amount of the costs by first class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing of the notice of the amount thereof, the Township assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided for property tax liens under the General Property Tax Act, 1893 P.A. 206, MCL 2.11.1 to 2.11.157.

Section 11. Judicial Review. An owner or party in interest aggrieved by any final decision or order of the Township Board may appeal the decision to the Berrien County Trial Court within twenty-eight (28) days after the date of service upon such owner or party in interest of a copy of such decision or order as provided in this ordinance.

Section 12. Penalties for Violation. A person who fails or refuses to comply with an order approved or modified by the Township Board under this ordinance within the time prescribed by that section is responsible for a civil infraction punishable by a civil fine of not more than \$500.

Section 13. Authority. This ordinance is enacted according to the statutes and laws of the state of Michigan including, but not limited to, the provisions of Public Act 1945, No. 246 (MCL 41.181 *et seq*) and Public Act 1917, No. 167, as amended (MCL 125.401 *et seq*).

Section 14. Conflicting Ordinances. Any ordinances or parts of ordinances in conflict hereof are hereby repealed.

Section 15. Other Remedies. The foregoing remedies and penalties are in addition to all other rights and powers of the Township to proceed at law or equity with other and additional appropriate remedies against assets of the owner other than the building or structure at issue.

Section 16. Validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 17. Effective Date. This Ordinance shall take effect on the 29th day of April, 2011.

A motion that said the foregoing Ordinance be adopted was made by Michelle Bennett and supported by Ken Peters at a regular meeting of the Sodus Township Board on the 8th day of March, 2011.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u>X</u>	_____
Virginia Palis	<u>X</u>	_____
Karen Morgan	<u>X</u>	_____
Marie Grajauskis	<u>X</u>	_____
Kenneth Peters	<u>X</u>	_____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the Dangerous or Unsafe Building Ordinance adopted by the Sodus Township Board at a meeting held on the 8th day of March, 2011, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: March 8 2011

Virginia Palis
Virginia Palis, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the Journal Era, Michigan, on the 30 day of March, 2011.

Virginia Palis
Virginia Palis, Township Clerk



Sodus Township

4056 King Drive • PO Box 176 • Sodus, Michigan 49126

Telephone (269) 926-6285 Fax (269) 926-1825

ORDER OF APPOINTMENT OF HEARING OFFICER PURSUANT TO MCL 125.540

KNOW ALL MEN BY THESE PRESENTS AS FOLLOWS:

1. My name is Michele Bennett, and I am the duly elected and serving Supervisor of Sodus Township in Berrien County, Michigan.

2. Pursuant to the Dangerous or Unsafe Building Ordinance adopted by Sodus Township March 8, 2011, and pursuant to Michigan law, David Dent, the Township Ordinance Enforcement officer, has found the building at 6132 River Road, Sodus Township, Berrien County, Michigan, to be a dangerous and unsafe building as defined at MCL 125.539 and the Ordinance.

3. NOW THEREFORE, pursuant to MCL 125.540 and the Ordinance, Cecil Derringer is found to be qualified as an expert in housing and building matters, and is appointed hearing officer and authorized to proceed by law on behalf of Sodus Township.

Dated: May 24, 2011

Michele Bennett
Michele Bennett, Supervisor

SODUS TOWNSHIP

WIND ENERGY CONVERSION SYSTEMS ORDINANCE NO. 32

Adopted: May 24, 2011

Published: June 8, 2011

Effective: June 8, 2011

AN ORDINANCE TO PROMOTE AND REGULATE THE SAFE EFFICIENT USE OF WIND ENERGY CONVERSION SYSTEMS; TO ADD APERMITTED USES TO SOME DISTRICTS; TO ADD SMALL WIND ENERGY CONVERSION SYSTEMS; TO ADD LARGE WIND ENERGY CONVERSION SYSTEMS; OF THE TOWNSHIP ZONING ORDINANCE; TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF SODUS TOWNSHIP RESIDENTS.

SODUS TOWNSHIP HEREBY ORDAINS:

Section 1. Definitions. The following shall apply to this ordinance:

Wind Energy Conversion System: “Wind Energy Conversion System: (WECS) shall mean all, or any combination of the following:

- A. A wind mill, mill or machine operated by wind acting on oblique vanes or sails that radiate form a horizontal shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- E. The tower, pylon, or other structure upon which any, all, or some combination of the/ above are mounted; and
- F. A wind monitoring station.

Wind Energy Conversion System, Small: A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 Kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

Wind Energy Conversion System, Large; A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 Kilowatts (kW).

Section 2. Small Wind Energy Conversion Systems (WECS) are regulated as follows:

- A. **Intent.** It is the purpose of this section to promote the safe, effective, and efficient use of small wind energy systems installed to reduce the on-site consumption of electricity supplied by utility companies.
- B. **Regulations.** A small WECS may be regarded as a permitted accessory use in any district, if it meets the standards and requirements of this section. A system that cannot meet the requirements of this section shall be regulated as a large WECS.
- C. **Tower Height.** For parcels of less than 2 acres in area, the tower height (not including the blades) shall be limited to 40 feet. For parcels with land area greater than 2 acres and located in the AG, Res Ag, Res, Commercial, and Industrial districts, the tower height (not including the blades) shall be limited to 60 feet.
- D. **Setback.** The tower shall be setback from all adjoining property lines and rights-of-way (public or private) the combined height of the tower and the turbine blade in its vertical position. (“Fall zone”) No part of the small WECS, including guy wire anchors, may extend into any adjacent yard or property. (Note: property owner may arrange an “easement” with an adjacent property owner to acquire their needed “fall zone” footage.)
- E. **Noise.** The applicant shall provide evidence that a small windmill will not cause sounds in excess of 60 dB, as measured at any property line.
- F. **Approval Required.** Small WECS shall bear an approval certificate from a certification program recognized by the American Wind Energy Association and all approvals, impact analyses, site plan applications, etc. shall be submitted to the Township Zoning Administrator.
- G. **Compliance with Uniform Building Code.** Building permit applications for small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted.
- H. **Utility Notification.** No small WECS shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

I. Abandonment. A small WECS that is inoperable and has not functioned for at least six (6) months shall be deemed to have been abandoned and the Zoning Administrator may order the removal of the turbine and tower.

J. Additional Turbines. A small WECS system may include more than one turbine and tower if all other requirements are met and the total of all turbines on the site does not exceed 100 kilowatts (kW).

Section 3. Large Wind Energy Conversion Systems are regulated as follows:

Large Wind Energy Conversion System. The following standards shall apply to all Large Wind Energy Conversion Systems (WECS) as defined herein except wind monitoring stations. Refer to above for regulations related to small WECS for regulations governing wind monitoring stations.

A. Impact Analysis Required. In addition to the special use application as required in the Zoning Ordinance, the applicant shall submit an evaluation of the likely impacts of the proposed facility in the following areas:

- (1) Noise and vibration at any property line,
- (2) Potential impacts on wildlife, including native and migrating birds, “shadow flicker” and glare impacts on adjacent properties, and
- (3) Aesthetic impacts of the WECS on adjoining properties.

B. Required Site Plan. In addition to the site plan required for a special land use permit, the applicant shall also submit an appropriately scaled site plan illustrating the following:

- (1) Property lines, dimension, acreage, and contours with appropriate intervals for site evaluation.
- (2) Location and elevation of the proposed large WECS.
- (3) Location and dimensions of all existing structures and uses on the lot within 300 feet of the systems.
- (4) Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed large WECS.
- (5) Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the large WECS location.

C. Additional Required Information. The applicant shall also submit the following information:

- (1) Standard drawings of the structural components of the large WECS, including structures, tower, base, and footings. A registered engineer shall certify drawings and any necessary calculations that the system complies with all applicable local, state, and federal building, structural and electrical codes.
- (2) Evidence from a qualified individual that the site is feasible for a large WECS.
- (3) Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.
- (4) Evidence that there is a substantial need for the proposed use.
- (5) Registered engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five (85) miles per hour.
- (6) Registered engineer's certification that if the wind turbine were to fall, no building or structure – existing or potential – would be damaged.

D. Setbacks.

- (1) Large WECS shall maintain a minimum setback of two (2) times the total height of the tower and blade height from any property line.
- (2) Large WECS shall maintain a minimum setback of at least five (5) times the tower height and blade from the right-of-way line of any public road or highway.
- (3) In all cases the large WECS shall maintain a minimum distance of at least 1.25 times the tower and blade height from any habitable structure.

E. Dimensions.

- (1) A large WECS shall be located on a parcel at least two and one-half (2-1/2) acres in size.
- (2) A large WECS shall not exceed a total tower and blade height of one hundred fifty (150) feet unless the parcel on which the large WECS is to be located is ten (10) acres or larger, in which case the maximum total tower and blade height may be two hundred (200) feet.
- (3) In all cases the minimum height of the lowest position of the large WECS blade shall be at least thirty (30) feet above the ground.
- (4) An approved large WECS shall be exempted from height restrictions of the zoning district.

F. General Siting and Design Standards.

- (1) Large WECS shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
- (2) Colors and surface treatment of the large WECS and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.

- (3) Large WECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such lighting shall be positioned to avoid undue visual impact on neighboring properties.

G. Safety Measures.

- (1) Each large WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- (2) The Planning Commission shall determine the height, color, and type of fencing for the large WECS installation.
- (3) Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs, pursuant to Paragraph 8 below.
- (4) Each large WECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electrical Code.
- (5) Any large WECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within twelve (12) feet of the ground. A locked, protective fence at least six (6) feet high shall enclose a tower capable of being climbed.
- (6) The large WECS operator shall maintain a current insurance policy which will cover installation and operation of the large WECS. The amount of said policy shall be established as a condition of approval. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the large WECS can be successfully operated in the Climatic conditions found in Sodus Township.
- (7) The large WECS shall be warranted against any systems failures reasonably expected in severe weather operation conditions as a condition of approval.
- (8) Large WECS shall include no sign or advertising of any kind, except for one sign, not to exceed two (2) square feet posted at the base of the tower, and said sign shall contain the following information:
 - i. "Warning: high voltage:
 - ii. Manufacturer's name
 - iii. Operator's name
 - iv. Emergency phone number
 - v. Emergency shutdown procedures

H. Radio and Television interference. A large WECS shall be designed and constructed so as not to cause radio and television interference.

I. Removal Required. If any large WECS remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove said system at his/her/their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property.

If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within 30 (30) days from the date of notification by the Zoning Administrator, Sodus Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder. To assure removal of an obsolete, inoperable or abandoned facility, the Township may require of the applicant a financial guarantee.

J. Primary Use. A wind monitoring station may be approved by the Planning Commission either as a principal or accessory use, however, all other components of a large WECS shall be considered a principal use on a parcel of land.

Section 4. Submission of Documents and Notices.

All documents and notices required by both large and small Wind Energy Conversion Systems shall be submitted as required to the Zoning Administrator for review and approval.

Section 5. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses by declared invalid.

Section 6. Effective Date.

This ordinance shall become effective eight (8) days after publication.

A motion that the foregoing Ordinance be enacted was made by Karen Morgan and supported by Ken Peter at a regular meeting of the Sodus Township Board on the 24th day of May, 2011.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u>x</u>	<u> </u>
Virginia Palis	<u>y</u>	<u> </u>
Karen Morgan	<u>x</u>	<u> </u>
Marie Grajauskis	<u>x</u>	<u> </u>
Kenneth Peters	<u>x</u>	<u> </u>

SODUS TOWNSHIP

MEDICAL MARIJUANA ORDINANCE NO. 33

Adopted: May 24,2011

Published: June 8,2011

Effective: June 8,2011

ORDINANCE

An ordinance to impose a limited moratorium on the cultivation, sale and/or dispensation of marijuana for medical purposes pursuant to the Michigan Medical Marijuana Act with the Township of Sodus.

The Township of Sodus, Berrien County, Michigan, ordains:

Section 1. Findings.

- A. The cultivation, sale and/or dispensation of marijuana for medical purposes was not envisioned when the current Sodus Township Zoning Ordinance and Sodus Township Master Land Use plan were adopted.
- B. Processing zoning, building and other license and permit requests for uses associated with the cultivation, sale and/or dispensation of medical marijuana prior to the amendment of the Sodus Township Zoning Ordinance and/or the adoption or amendment of other Sodus Township ordinances would be detrimental to the public health, safety and welfare and would not ensure that the use is situated in appropriate locations and relationships and has the proper regulation.
- C. The Township of Sodus desires to ascertain the best and safest path to compliance with the Michigan medical Marijuana Act, P.A. 2008 Initiated Law 1, MCL 333.26421 et seq (hereinafter "MMMA"), the Michigan Zoning Enabling Act, P.A. 2006, No. 110, MCL 125.3101 et seq, and all other applicable laws in order to best protect the public health, safety and welfare.
- D. The Township of Sodus through its Planning Commission and Township Board finds that it is in the best interest of the Township that it have further time to study this matter and to prepare and adopt an ordinance or ordinances to accomplish the above goals, such additional time to not exceed six months.

- E. The Township of Sodus through its Township Board accordingly determines that it is desirable and in the public interest for the reasons set forth above that there be an immediate moratorium on the cultivation, sale and/or dispensation of medical marijuana (with certain exceptions as set forth herein) either (1) for a period of six months from the effective date of this Ordinance or (2) until the effective date of a new Township ordinance or ordinances addressing this matter, whichever occurs first.

Section 2. Definitions. The following definitions shall apply for purposes of this Ordinance:

- A. "Marijuana" means the substance or material defined in Section 7106 of the Michigan Public Health Code, 1976 PA 368, MCL 333.7106.
- B. "Michigan Medical Marijuana Act" or "MMMA" means the Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.
- C. "Primary caregiver" means a person as defined under MCL 333.26423(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
- D. "Qualifying patient" means a person as defined under MCL 333.26423(h) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
- E. "Registry Identification Card" means the document defined under MCL 333.26423(k) of the Act.

Section 3. License Requirement. No person shall engage in the cultivation, storage, sale and/or dispensation of marijuana for medical purposes within the limits of Sodus Township without first have applied for and obtained a license to do so from the Township Clerk identifying the location at which such activity shall be conducted.

Section 4. Moratorium. There is hereby imposed a moratorium upon the issuance of all Township permits, licenses and approvals (including but not limited to licenses required under Section 3 above, building permits and zoning permits) for the cultivation, storage, sale and/or dispensation of marijuana for medical purposes.

Section 5. Exceptions to Licensing Requirement and Moratorium.

The licensing requirement and moratorium imposed under this Ordinance shall not be deemed to apply to the following:

- A. The cultivation, storage and/or use of marijuana for medical purposes by a qualifying patient solely for his/her personal use and in accordance with the provisions of the MMMA and the administrative rules adopted thereunder.
- B. the cultivation, storage and/or dispensation of marijuana for medical purposes in accordance with the MMMA and the administrative rules adopted thereunder by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the qualifying primary caregiver’s household and whose residence is shared with the primary caregiver.
- C. The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marijuana use, including distribution or other assistance, in accordance with the MMMA and the administrative regulations adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.
- D. The cultivation, storage, sale and/or dispensation of marijuana for medical purposes by not more than one primary caregiver per lot or parcel in accordance with the MMMA and the administrative rules adopted thereunder. This exception shall only apply to a primary caregiver that is operating in conformance with the MMMA as of the effective date of this Ordinance.

Section 6. Severability. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reasons, by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part or portion thereof.

Section 7. Sanctions. Any person, firm, association, partnership, corporation or entity that violates any of the provisions of this ordinance shall be deemed responsible for a municipal civil infraction as defined by Michigan statutes which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 st Offense	\$ 75.00	\$500.00
2 nd Offense	\$150.00	\$500.00
3 rd Offense	\$325.00	\$500.00

Additionally, the violator shall pay costs, which may include all expenses, direct and indirect, to which Sodus Township has been put in connection with the municipal civil infraction. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

Section 8. Term of Moratorium and Prohibition. This moratorium imposed hereunder shall expire upon (1) six months from the effective date of this Ordinance or (2) the effective date of a new Township ordinance or ordinances addressing this matter, whichever occurs first.

Section 9. Effective Date. This Ordinance shall take effect immediately upon publication following adoption. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

A motion that the foregoing Ordinance be adopted was made by _____ and supported by _____ at a regular meeting of the Sodus Township Board on the _____ day of _____, 2011.

The names of the Township Board members and their notes are as follows:

NAME	YES	NO
Michele Bennett	_____	_____
Virginia Palis	_____	_____
Karen Morgan	_____	_____
Marie Grajauskis	_____	_____
Kenneth Peters	_____	_____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the Moratorium on the Michigan Medical Marijuana Act Ordinance adopted by the Sodus Township Board at a meeting held on the _____ day of _____, 2011, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the cases of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: _____, 2011

Virginia Palis, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published
in the _____, _____, Michigan,
on the _____ day of _____, 2011.

Virginia Palis, Township Clerk

**SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN**

Ordinance No. 34

Adopted: 7-9-2013

Published: 7-31-2013

Effective: 8-30-2013

An ordinance providing for the enforcement of local township ordinances within the Township of Sodus, Berrien County, Michigan, as Municipal Civil Infractions pursuant to the terms of Michigan Revised Judicature Act, being Public Act 236 of 1961, as amended, as such local ordinances may, from and after the date this ordinance, be specifically designated as enforceable as a Municipal Civil Infraction.

SODUS TOWNSHIP HEREBY ORDAINS:

Section 1. Purpose; Establishment.

The purpose of this ordinance is to establish that certain specified Township Ordinances may be enforced as Municipal Civil Infractions as provided by law. At the time of adoption of this Ordinance, the Township Ordinances enforceable as Municipal Civil Infractions shall be Ordinance No. 3 Blight, Ordinance No. 10 Cemetery, Ordinance No. 20 Land Division, and Ordinance No. 22 Communication Towers. Township ordinances may be amended to provide for enforcement by municipal civil infraction as the Sodus Township Board of Trustees may provide, and all ordinances changed to municipal civil infractions may be individually amended so as to reflect they are no longer criminal in nature.

Section 2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. ***Act.*** The word "act" shall refer to the Public Act No. 236 of 1961 (MCL 600.101 *et seq.*), as amended.
- B. ***Authorized Township official.*** A police officer, code enforcement officer, building official or other personnel of the Township authorized by this or any Township ordinance to issue a municipal civil infraction citation or municipal ordinance violation notice.

- C. **Municipal infraction action.** A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- D. **Municipal civil infraction citation.** A written complaint or notice prepared by an authorized Township official, directed to a person to pay a fine or appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- E. **Person, and its derivatives.** A natural person, partnership, association, legal entity, a limited liability corporation or company or a corporate body or any body of persons corporate or incorporate. Whenever used in a clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- F. **Township.** The Township of Sodus, a municipal corporation in Berrien County, in the State of Michigan.

Section 3. Commencement of Action.

A municipal civil infraction action may be commenced upon the issuance of a municipal civil infraction citation by an authorized Township official directing the alleged violator to appear in court.

Section 4. Issuance and Service of Citations.

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

- A. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- B. The place for appearance specified in a citation shall be the location of the Berrien County Trial Court as identified in the citation.
- C. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the court. Copies of the citation shall be retained by the Township and issued to the alleged violator as provided by Section 8705 of the Act (MCL 600.8705).
- D. A citation for a municipal civil infraction, signed by an authorized Township official, shall be treated as if it were made under oath and as if the violation alleged in the citation occurred in the presence of the official signing the

complaint. The citation shall contain the following statement immediately above the date and signature of the official issuing the citation:

"I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

- E. An authorized Township official who witnesses a person committing a municipal civil infraction shall prepare and subscribe, as soon as and as completely as possible, an original and required copies of a citation.
- F. An authorized Township official may issue a citation to a person if:
 - 1. Based upon the investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;
 - 2. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for such an infraction and if the Township attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized Township official as follows:
 - 1. Except as otherwise provided by law, an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
 - 2. If the municipal civil infraction action involves:
 - a. The use or occupancy of land, a building or other structure, a copy of the citation does not need to 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; or
 - b. A vehicle located on a parcel within the corporate limits and is improperly stored, junked or abandoned, improperly parked, is in an inoperable condition, or is otherwise a municipal civil infraction under Sodus Township ordinances, a copy of the citation does not need to 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.

- H. Sworn police officers, acting with authority of the Sodus Township Board of Trustees, shall have general discretion as to whether or not to cite violation of a Sodus Township ordinance enforceable as a municipal civil infraction. Non-sworn officials of the Township shall likewise have discretion to cite such violations as a municipal civil infraction, if empowered to cite violations by the Sodus Township Board of Trustees.

Section 5. Contents of Citations.

- A. A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.
- B. Further, the citation shall inform the alleged violator that he may do one of the following:
1. Admit responsibility for the municipal civil infraction by mail, in person or by representation, at or by the time specified for appearance.
 2. Admit responsibility for the municipal civil infraction with explanation by mail, by the time specified for appearance, or in person or by representation.
 3. Deny responsibility for the municipal civil infraction by doing one of the following:
 - a. Appear in person for an informal hearing before a judge or court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.
 - b. Appear in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- C. The citation shall also inform the alleged violator of all of the following:
1. If the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

2. If the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 3. A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
 4. At an informal hearing, the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 5. At a formal hearing, the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- D. The citation shall contain a notice that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

Section 6: Penalties and Sanctions; Cumulative Remedies.

- A. The sanction for a violation which is a civil infraction shall be a civil fine in the amount as provided by the ordinance involved, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, Public Acts 12-26 of 1994, as amended, and other applicable laws.
1. Unless otherwise specifically provided for a particular municipal civil infraction, violation by this Code or any ordinance, the civil fine for a violation shall be not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each infraction.
 2. Increased civil fines may be imposed for repeated violations by a person or any requirement or provision of this Code of Ordinances. As used in this section, the term "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision:
 - a. Committed by a person within any 12-month period (unless some other period is specifically provided by this Code of Ordinances); and
 - b. for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code of

Ordinances for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

- (i) The fine for any offense which is a first repeat offense shall be not less than \$125.00 nor more than \$500.00 plus costs.
 - (ii) The fine for any offense which is a second repeat offense shall be not less than \$250.00 nor more than \$500.00 plus costs.
 - (iii) The fine for any offense which is a third repeat offense or any subsequent repeat offense shall be not less than \$400.00 nor more than \$500.00 plus costs.
- B. In addition to pursuing a municipal civil infraction proceeding pursuant to "subsection A" hereof, the Township may also institute an appropriate action in the court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- C. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- D. Any use of land that is commenced or conducted, any activity, or any building, item or structure that is erected, moved, used, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is also hereby declared to be a nuisance per se.
- E. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.
- F. Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this Ordinance for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision Ordinance involved as if the violation had been successful or completed.

Section 7. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid

Section 8. Effective Date.

This ordinance shall become effective thirty (30) days after publication. Upon its effective date, this Ordinance supersedes and repeals prior Ordinances.

A motion that the foregoing Ordinance be enacted was made by Chandler and supported by Peters at a regular meeting of the Sodus Township Board on the 9 day of July, 2013.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	X	
Cheryl Andres	X	
Karen Morgan	X	
David Chandler	X	
Kenneth Peters	X	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the Municipal Civil Infractions Ordinance adopted by the Sodus Township Board at a meeting held on the 9 day of July, 2013, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: 7-29-2013 2013

Cheryl Andres, Sup. Clerk
Cheryl Andres, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the Journal Era, Berrien Springs Michigan, on the 31st day of July, 2013.

Cheryl Andres Sup. Clerk
Cheryl Andres, Township Clerk

Ordinance No. 35

**ORDINANCE TO LICENSE AND ESTABLISH STANDARDS
FOR HALFWAY HOUSES**

SODUS TOWNSHIP, BERRIEN COUNTY, STATE OF MICHIGAN

ADOPTED: January 10, 2017

The Township of Sodus, Berrien County, Michigan, hereby ordains:

**SECTION 1
PURPOSE**

The purpose of this Ordinance is to license and establish minimum standards for halfway houses located in Sodus Township.

**SECTION 2
DEFINITION: HALFWAY HOUSE**

Any building, or group of buildings under common ownership, that in exchange for any form of remuneration from a single source that houses one or more persons under the jurisdiction of the Michigan Department of Corrections or any other state agency. Halfway house includes and is not limited to a community corrections center, resident home, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections including any adult foster care facility licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

**SECTION 3
LICENSE REQUIRED**

Any person, including entities, who wishes to operate a halfway house within Sodus Township, must obtain and maintain a license as set forth herein. The license must be conspicuously displayed on the licensed property.

**SECTION 4
LICENSE REQUIREMENTS**

To obtain and maintain a license herein, businesses must meet the following requirements:

- a. Be located in any non-residential zoning districts; (e.g. residential & Res. Ag)
- b. Be in compliance with all Township ordinances including, but not limited to, its building code;
- c. Not be located in or operating as a hotel, motel, or similar lodging establishment open to the general public for daily rental;
- d. Employ at least one full time security guard;

- e. Be located at least fifteen hundred feet from any of the following:
1. Schools
 2. Churches or places of worship
 3. Businesses licensed by the Michigan Liquor Control Commission
 4. Other businesses licensed under this Ordinance
 5. All residentially zoned property including Res-Ag

**SECTION 5
APPLICATION PROCEDURE**

A person applying for a license must submit an application to the Township Clerk. The applications are available from the Township Administrative Offices. Upon determination by the Building Department that the property meets the requirements above, the application shall be presented to the Township Board who will grant or deny the issuance of the license.

**SECTION 6
DURATION OF LICENSE**

Each license issued under this Ordinance shall be issued for one year and shall expire on the day after the one year anniversary of its issuance.

**SECTION 7
LICENSE FEE**

The annual fee for a license under this Ordinance is \$200.00 or such other amount as may be fixed from time to time by the Township Board.

**SECTION 8
LICENSE RENEWAL**

Not less than thirty (30) days before the expiration of a license issued under this Ordinance, the licensee shall submit an original application to the Township Clerk to renew the license. Upon certification from the Building Department that the property meets the requirements of this Ordinance, the application shall be presented to the Township Board who will determine whether to grant or deny a renewal of the license.

**SECTION 9
LICENSE SEIZURE AND SUSPENSION**

The Township Ordinance Enforcement Officer may suspend and seize any license issued under this Ordinance when the person or place so licensed is found to be in violation of the provisions of this Ordinance. A license that is seized shall be returned to the Township Clerk the next business day along with a written report of the circumstances surrounding the seizure. The report will be submitted to the Township Board at the next regularly

scheduled meeting for review and a determination of future of further action. The further action may include revocation, suspension or return of the license on a probationary basis. Conditions imposed under a probationary license will be reasonably related to the reasons for the underlying seizure.

SECTION 10 JUDICIAL REVIEW

Any owner or party in interest aggrieved by any final decision or order of the Township Board may appeal the decision to the Berrien County Trial Court within twenty-eight (28) days after the date of service upon such owner or party in interest of a copy of such decision or order as provided in this Ordinance.

SECTION 11 PENALTIES FOR VIOLATION

A person who fails or refused to comply with an order approved or modified by the Township Board under this Ordinance within the time prescribed in such order is responsible for a civil infraction punishable by a civil fine of not more than five hundred dollars (\$500.00). (MCL 600.8727).

SECTION 12 CONFLICTING ORDINANCES

Any ordinances or part of ordinances in conflict hereof are hereby repealed and shall not affect this ordinance or its enforcement.

SECTION 13 OTHER REMEDIES

The foregoing remedies and penalties are in addition to all other rights and powers of the Township to proceed at law or equity with other and additional appropriate remedies against assets of the owner or to obtain any injunction.

In addition to the imposition of the foregoing fines and penalties, the violation of the provisions of this ordinance is deemed to be a nuisance and any person, firm or corporation who refused or neglects to comply with an order of the Township Board, the Township Supervisor, the Township Building and Zoning Inspection or Enforcement Officer, issued under this ordinance, then said Board may cause said nuisance to be removed from the premises, and the cost thereof assessed against the owner or occupant of the premises upon which the same is located. If the owner or occupant of such premises shall refuse upon demand to pay such expenses so incurred, such sum shall be assessed against the real estate involved and shall be collected and treated in the same manner as are taxes assessed under the general laws of the State of Michigan.

**SECTION 14
VALIDITY**

If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 15
EFFECTIVE DATE**

This Ordinance shall take effect on the 17th day of February 2017.

CERTIFICATION

I, Cheryl Andres, the Clerk of Sodus Township, hereby certify that the foregoing Ordinance was adopted by the Township Board of said Township at a regular meeting of the said Board held on January 10, 2017, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth; that said Ordinance was ordered to take immediate effect.

Cheryl Andres
Cheryl Andres, Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the The Journal Era, Berlin Springs, Michigan, on the 18th day of January, 2017.

Cheryl Andres
Cheryl Andres, Clerk

**SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN
WATER ORDINANCE
Ordinance No. 36**

An ordinance to regulate and control the construction, installation, extension, service connection, and operation of public water mains and public water service within Sodus Township; to prescribe procedures for securing such public water service and the rates and charges for the same and to provide penalties for the violation of such ordinance regulations.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Township: the Township of Sodus or the Township Board of Trustees or its authorized agent or representative.

Water System: those portions that lie within the boundaries of Sodus Township water supply system including all water lines, pumps, storage or treatment facilities, and all other facilities used or useful in the transmission and distribution of potable water, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

Watercourse: a channel in which a flow of water occurs, either continuously or intermittently.

Section 2 Procedure

A. Application

Any person, firm or corporation desiring public water service shall file an application with the Township, containing the name and address of the applicant; a description of the land or premises to be serviced; the nature of the use anticipated for the water; the size of the water service connection pipes desired; the distance, if known, that the property is located from any existing public water main; the anticipated number of connections from the property contemplated in the foreseeable future.

B. Benefit Connection

1. No water service connection shall be allowed until the full benefit charge has been paid to the Township in such an amount as is determined by the Township Board. Such charges may be changed from time to time by the Township Board to reflect changes in construction costs and to maintain a fairly uniform charge between different current projects. The full benefit charge shall be collected at the time of construction permit issuance for the project or property.
2. There shall be paid on behalf of any premises making direct private connection to any public water line that has not been either privately constructed and paid for on behalf of said premises or publicly financed at least in part by means of special assessment levied against the property on which said premises is located or where any connection is made in excess of the one connection contemplated by the special benefit charge in said special assessment district, for the privilege of making use of said public line as a water lateral, a lateral benefit charge shall be determined by the Sodus Township Board.
3. The Township reserves the right to install any required service connection or main extension, to subcontract the same to any private licensed contractor, or to permit the owner or owner's contractor to construct the same, provided that in such latter event, an inspection and supervision fee shall be paid by the applicant to the Township.
4. Any contract with an applicant shall contain, in addition to the foregoing, the following:
 - a) A map disclosing the design of the system and the location of the mains, valves, fittings, and all other accessories thereto which are to be installed.
 - b) A performance bond that shall be required in the event the installation is to be made by any one other than the Township, which shall be 150 percent of the total cost of the installation and shall be conditioned upon the completion of the installation in a proper and workman-like manner in accordance with the plans and specifications of the Township and the furnishing of satisfactory evidence of the fact the project is free to present and future liens of contractors, subcontractors and material men.
 - c) The amount and condition of any public liability and property damage insurance that shall be required to insure the Township in the event the installation is to be made by any one other than

the Township, which shall be not less than \$300,000 and \$500,000 respectively.

d) The amount, if any, to be paid the Township for administrative, legal and engineering cost or for the value of the availability of the water to which the property of the applicant is to be connected.

5. Full hookup to the water system is dependent upon a fully inspected and approved plumbing connection by the Township Plumbing Inspector that is in compliance with the plumbing codes of the Township or State.

C. Plans and Permits

No public water main construction shall be commenced until all plans and specifications have been submitted to and approved by the Township and all required state, county and municipal permits have been obtained.

Section 3 Public Utility Funds

A. Revenues

The revenues of the water system shall be collected and deposited in a water fund. In no instance shall water fund money be intermingled or applied to any account other than to the correct account for the service. Revenues shall be used for the following purposes:

1. Administration, operation and inspection.
2. Any monies in the fund not required for the above purpose may from time to time be transferred by the Township Board to the appropriate contract payment fund (water debt retirement fund) to be used solely for the payment of Sodus Township obligations.
3. Any monies not required for the contract payment fund, may from time to time be transferred by the Township board to the appropriate replacement and improvement fund to be used solely for major replacements, improvements or additions to the water system.

B. Funds

Water service shall have a separate bank account. All monies belonging to any of the water fund, may be kept in one bank account. Income received from investments, (investments made in the manner and subject to the limitations provided by law, provided in P.A. 94 of 1933, as amended) shall be credited to the fund.

Section 4 Rates

A. Water Rates

No free public water service shall be allowed and all those properties connected to public water or sewer system shall be subject to the payment of such water rates and charges as shall be determined by the Township Board.

B. Establishment of Rates

Rates charged for users of the system shall be determined by resolution of the Township Board from time to time, and shall at all times be sufficient, when added to other monies legally available for such purpose, to meet all costs of the system, including the contractual obligation of the Township to Benton Township, the supplier of water.

C. Operation and Maintenance Recovery Charge:

Pursuant to Section 3 of the Benton Charter Township and Sodus Township Water Service Agreement, Sodus must pay for and maintain its water distribution system and reimburse Benton Charter Township for any maintenance expenses incurred in the repair of the system and therefore establishes the following Operation and Maintenance Recover Charges.

Each meter which is connected to the system with a service connection ready to be used, shall pay an operation and maintenance recovery charge (O & M charge) for each such service connection per meter size as follows:

Meter Size in Inches	Monthly O & M Charge
3/4 inches	\$ 10.24
1"	\$ 18.20
1 1/2 inches	\$ 40.95
2 inches	\$ 72.80
3 inches	\$163.79
4 inches	\$291.19
6 inches	\$655.18

D. Discount or Penalty

Any discounts or penalty provisions provided for in ordinances of or resolutions of Benton Township, shall apply prorated to the Township of Sodus customers of the water service.

E. Additional Charges

The Township retains the right to establish additional charges or special rates where unusual circumstances warrant the same.

F. Termination of Charges

The above charges will continue, until:

1. The owner or agent shall notify the Township that uses of the water is terminated for said premises;
2. The plumbing inspection fee is paid;
3. The service line to the premises has been plugged in conformance with the requirements of the plumbing inspector;
4. A certificate that the work has been done is issued by the inspector.

G. Billing

Bills shall be rendered monthly, payable with the same grace and penalty provisions as are provided for users within Benton Township.

H. Past Due Bills

All bills not paid on or before the past due date shall be termed delinquent, and the Township shall have the right to shut off and discontinue water service to any premises for the nonpayment of rates established in the fee schedule when due.

I. Delinquency

Whenever any charge against a property shall be delinquent for six (6) months, the Township shall certify annually, on September 15th of each year, to the delinquency to the tax assessing officer of the Township. The Township assessing officer shall enter on the next tax roll as a lien against such premises the delinquent charges and the charges shall be collected and the lien thereof enforced in the same manner as the general township taxes against such premises are collected. Where notice is given that a tenant is responsible for such charges and service, no further service shall be rendered to such premises until a cash deposit in the amount determined by resolution of the Township Board from time to time shall have been made as security for the payment of such charges and services.

J. Discontinuance of Service

In addition to the above, the Township may proceed under PA 1981, No. 132 (MCL 123.161 *et seq.*) and discontinue service for non-payment or any action permitted by law.

Section 5 Water Service

A. Water Meters

All premises connected to public water system shall be equipped with a public water meter, so located that all water entering the premises shall pass through such meter and be measured as to volume consumed for periodic computation of water charges.

B. Cross Connections

No cross connections between any private water system and the Township water system shall be allowed and no plumbing shall, at any time, be connected to the public system, which is in any manner connected or a part of any private system.

C. Water Service Connections

1. Size and Installation

All water service connections are to be made by Sodus Township or its designee from the public transmission main to the required water meter and shall be in compliance with applicable State, County, and Township requirements.

2. Use of Fire Hydrants

No fire hydrant shall be used for any purpose other than fire protection without the prior approval of Benton Township.

D. Benton Township Certificate

No public water mains shall be made or become operational until the water flowing therefore has been certified as safe and free of any harmful contamination by Benton Township and a written certificate attesting thereto is on file with the Township.

E. Penalties

- a) In addition to any other penalty or remedy set forth by ordinance, resolution, rule or regulation, violations of this section shall be civil infractions, punishable by a civil fine of not less than \$100.00 and not more than \$500, plus any costs and fees assessed by the court. All penalties and remedies shall be cumulative and the imposition of one shall not be a bar to any other.

Section 6 Powers and Authority of Inspectors

The building inspector or other duly authorized employee of the Township bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Ordinance.

The above Ordinance was offered for adoption by Township Board member David Chandler and seconded by Township Board member Ken Peters, the vote being as follows:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
David Chandler	<u>✓</u>	<u>_____</u>	<u>_____</u>
Cheryl Andres	<u>✓</u>	<u>_____</u>	<u>_____</u>
Karen Morgan	<u>✓</u>	<u>_____</u>	<u>_____</u>
Kenneth Peters	<u>✓</u>	<u>_____</u>	<u>_____</u>
Loyall Bennett	<u>✓</u>	<u>_____</u>	<u>_____</u>

WHEREUPON, the Supervisor declared this Ordinance adopted this 14th day of March, 2017.

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Sodus Township Board, Berrien County, Michigan, at a regular meeting held on the 14th day of March, 2017, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, including, in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

In witness whereof I have affixed by official signature this 14th day of March, 2017.

Cheryl Andres
Cheryl Andres, Township Clerk

PUBLICATION

I further certify that the aforesaid Ordinance was recorded in the Ordinance Book for Sodus Township on the 14th day of March, 2017, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that the foregoing Ordinance was published in full or by summary in the Journal Era, a newspaper circulated in the Township of Sodus, Berrien County, Michigan, on the 22nd day of March, 2017.

Cheryl Andres
Cheryl Andres, Township Clerk

Effective 4-21-2017

ORDINANCE NO. 37

**TOWNSHIP OF SODUS, BERRIEN COUNTY, STATE OF MICHIGAN
PROHIBITION OF MARIHUANA ESTABLISHMENTS ORDINANCE**

**ADOPTED: 2-12, 2019
(Effective: 3-21, 2019)**

An Ordinance to define words; to prohibit marihuana establishments within the boundaries of Sodus Township pursuant to Initiated Law 1 of 2018, as proposed under Article 2, Section 9 of the Constitution of 1963, as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Title.

This ordinance shall be known as and may be cited as the Sodus Township Prohibition of Marihuana Establishments Ordinance to opt out of Initiated Law 1 of 2018.

SECTION 2. Definitions.

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, as may be amended.

SECTION 3. No Marihuana Establishments.

Sodus Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, as may be amended.

SECTION 4. Violations and Penalties.

- A. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

- B. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the enforcement of this ordinance pursuant to MCL 600.8727.
- C. Each day during which any violation continues shall be deemed a separate offense.
- D. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- E. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION 5. Severability.

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 6. Repeal.

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. Effective Date.

This ordinance shall take effect the 21st day after publication.

SECTION 8. Publication, Recordation.

This Ordinance or a summary shall be published as required by law in The Journal Era, a newspaper of general circulation in the Township, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Township Supervisor and Township Clerk.

The above Ordinance was offered for adoption by Township Board Member David Chandler and seconded by Township Board Member Karen Morgan the vote being as follows:

NAME	YES	NO	ABSENT
David Chandler	<u>X</u>	_____	_____
Cheryl Andres	<u>X</u>	_____	_____
Karen Morgan	<u>X</u>	_____	_____
Ken Peters	<u>X</u>	_____	_____
Loyall Bennett	<u>X</u>	_____	_____

THE TOWNSHIP SUPERVISOR DECLARED THIS ORDINANCE ADOPTED THIS 12 DAY OF February, 2019.

CERTIFICATION

I certify that the foregoing is a true and complete copy of the Prohibition of Marihuana Establishments Ordinance by the Sodus Township Board at a meeting held on the 12th day of February, 2019, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: 2-12, 2019 Cheryl Andres
Cheryl Andres, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the The Journal Era on the 20th day of February, 2019.

Dated: 2-12, 2019 Cheryl Andres
Cheryl Andres, Township Clerk

ORDINANCE NO. 38

SODUS TOWNSHIP, BERRIEN COUNTY, STATE OF MICHIGAN

SODUS TOWNSHIP ORV ORDINANCE

ADOPTED: Aug 13, 2019
(Effective: Sept 21, 2019)

An Ordinance to define words; to permit the operation of Off Road Vehicles to use roads within the boundaries of Sodus Township pursuant to law as proposed under PA 78 of 1989 (MCL 41.181 *et seq*) as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Title

This ordinance shall be known as and may be cited as the "Sodus Township ORV Ordinance".

SECTION 2. Definitions

Words used herein shall have the definitions as provided for in MCL 324.81101 *et seq* as may be amended in addition to the following:

"ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, or ORV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, or other means of transportation deriving motor power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction, or logging vehicle used in performance of its common function, a registered aircraft, an amphibious machine or a ground effect air cushion vehicle.

"Township" means the Township of Sodus.

“Road Commission” means the Berrien County Road Department.

SECTION 3. ORV Operation

Sodus Township hereby permits ORV's to operate within the boundaries of the Township pursuant to state law (MCL 324.81101 *et seq*) as may be amended and subject to conditions and limitations stated herein.

SECTION 4. Closed Roads

A person may not operate an ORV on any road designated as closed to ORV operation on the official ORV Map referenced in Section 9. Notwithstanding the above, a person may operate an ORV on a closed road for the purpose of accessing the nearest open road from a residence which cannot be more than ½ mile from said open road. This does not apply to State and Federal Highways, roads exempt from opening by state statute, roads closed by action of the Berrien County Road Department, roads closed by Order of Law Enforcement Officers, and roads bordering municipalities which have not authorized the use of ORVs on public streets under MCL 324.81131 or other applicable law, including but not limited to Sodus Parkway south of Pipestone from Naomi Road to the Township southern border, US 31, and I-94, Naomi Road-East from Hillandale to the township line, River Road-from Pipestone to Naomi Road, and Hillandale Road-from Watson Road to Townline Road. Operation of an ORV on those roads is not permitted under any circumstance.

SECTION 5. Closure by County Road Department or Law Enforcement

- a) The Berrien County Road Department, Law Enforcement, and other state agencies and entities with power to close public roads located within the Township may close said roads to the operation of ORVs otherwise authorized pursuant to this ordinance.
- b) If a road is closed under subsection a) of this section, the Sodus Township Board of Trustees shall, as necessary, adopt a resolution amending the official ORV Map designating such road(s) as closed, unless said closure is expected to last less than six (6) months.

SECTION 6. Conditions for Operation

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the Township:

- a) At a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) By a person not less than 16 years of age.
- c) With the flow of traffic and as follows:

- i. On the right shoulder of the road.
 - ii. If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
 - iii. On the far right of the right traffic lane of the road, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.
- d) In a manner which does not interfere with traffic on the road or street.
- e) Traveling single file except when overtaking and passing another ORV.
- f) Displaying a lighted headlight, lighted taillight and brake light.
- g) Operation hours: one-half hour before sunrise until one-half hour after sunset.
- h) While the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- i) With a rear viewing mirror.
- j) With a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) With a United States Forest Service approved, spark arrester and muffler, in good working order and in constant operation.
- l) Pursuant to noise standards defined by law.
- m) Obeying all other laws relating to the operation of a vehicle in public streets including, but not limited to, following, turn signal requirements, yielding to traffic, etc.
- n) There is no operation of an ORV on sidewalks, trails, or other surfaces designed for pedestrian travel. There is no operation of an ORV in a public park or other space customarily used by pedestrians.
- o) While the operator is in possession of a valid Driver's License.

- p) Each ORV shall have a valid State of Michigan ORV sticker affixed to the ORV.

SECTION 7. Persons Under 18

A person less than 18 years of age shall not operate an ORV on a road in the Township unless they are under the direct supervision of a parent or legal guardian and the person has in his or her possession an ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

SECTION 8. *Prima Facie* Negligence

In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road or street pursuant to the Michigan Vehicle Code was in a collision on a roadway with an ORV that is not registered under the Michigan Vehicle Code, the operator of the ORV shall be considered *prima facie* negligent.

SECTION 9. Official ORV Map

The Township shall maintain a master map of all roads under its jurisdiction upon which shall be indicated those roads and parts of sections thereof which the operation of ORVs is permitted and prohibited pursuant to this ordinance. Such map shall be known as the official ORV Map and the master copy shall be kept at the Sodus Township town hall. The Township shall make a copy of the ORV Map available to interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make, or to assume any expense associated with the making of such copies. The official ORV Map on display at the Township Hall shall govern in the event of a dispute.

- a) The first official ORV Map under this ordinance shall be published within 90 days of the adoption of this Ordinance;
- b) The Sodus Township Board of Trustees may, by resolution, amend the official ORV Map as and when it deems it appropriate to do so.

SECTION 10. Agricultural

Agricultural use of an ORV shall be governed by MCL 324.81122.

SECTION 11. Funds

The Township Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund." Township Board shall appropriate revenue in the ORV Fund as provided by law. (MCL 324.81131(14)).

SECTION 12. ~~Expiration~~ - *Made Permanent on Aug. 10, 2021 - effective*

~~This Ordinance shall cease to be effective and the permissions granted herein revoked two years after its effective date.~~

SECTION 13. Violations and Penalties

- A. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- B. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction pursuant to MCL 600.8727. In addition, the Court shall order the Defendant to pay the costs of repairing any damage to the environment, a road or street, or public property damaged as a result of the violation.
- C. Each day during which any violation continues shall be deemed a separate offense.
- D. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- E. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION 14. Severability.

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 15. Repeal.

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 16. Effective Date.

This ordinance shall take effect the 31st day after publication.

SECTION 17. Publication, Recordation.

This Ordinance or a summary shall be published as required by law in a newspaper of general circulation in the Township, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Township Supervisor and Township Clerk.

The above Ordinance was offered for adoption by Township Board Member David Chandler and seconded by Township Board Member Loyall Bennett the roll call vote being as follows:

NAME	YES	NO	ABSENT
David Chandler	<u>✓</u>	<u> </u>	<u> </u>
Cheryl Andres	<u>✓</u>	<u> </u>	<u> </u>
Karen Morgan	<u> </u>	<u> </u>	<u>✓</u>
Ken Peters	<u> </u>	<u> </u>	<u>✓</u>
Loyall Bennett	<u>✓</u>	<u> </u>	<u> </u>

THE BOARD SUPERVISOR DECLARED THIS ORDINANCE ADOPTED THIS 13th DAY OF August, 2019.

CERTIFICATION

I certify that the foregoing is a true and complete copy of the Sodus Township ORV Ordinance adopted by the Township Board at a meeting held on the ___ day of _____, 2019, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: Aug 13, 2019

Cheryl Andres
Cheryl Andres, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the The Journal Era on the 21st day of August, 2019.

Dated: Aug 13, 2019

Cheryl Andres
Cheryl Andres, Township Clerk

ORDINANCE NO. 38

SODUS TOWNSHIP, BERRIEN COUNTY, STATE OF MICHIGAN

SODUS TOWNSHIP ORV ORDINANCE

ADOPTED: Aug 13, 2019
(Effective: Sept 21, 2019)

An Ordinance to define words; to permit the operation of Off Road Vehicles to use roads within the boundaries of Sodus Township pursuant to law as proposed under PA 78 of 1989 (MCL 41.181 *et seq*) as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Title

This ordinance shall be known as and may be cited as the "Sodus Township ORV Ordinance".

SECTION 2. Definitions

Words used herein shall have the definitions as provided for in MCL 324.81101 *et seq* as may be amended in addition to the following:

"ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, or ORV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, or other means of transportation deriving motor power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction, or logging vehicle used in performance of its common function, a registered aircraft, an amphibious machine or a ground effect air cushion vehicle.

"Township" means the Township of Sodus.

“Road Commission” means the Berrien County Road Department.

SECTION 3. ORV Operation

Sodus Township hereby permits ORV’s to operate within the boundaries of the Township pursuant to state law (MCL 324.81101 *et seq*) as may be amended and subject to conditions and limitations stated herein.

SECTION 4. Closed Roads

A person may not operate an ORV on any road designated as closed to ORV operation on the official ORV Map referenced in Section 9. Notwithstanding the above, a person may operate an ORV on a closed road for the purpose of accessing the nearest open road from a residence which cannot be more than ½ mile from said open road. This does not apply to State and Federal Highways, roads exempt from opening by state statute, roads closed by action of the Berrien County Road Department, roads closed by Order of Law Enforcement Officers, and roads bordering municipalities which have not authorized the use of ORVs on public streets under MCL 324.81131 or other applicable law, including but not limited to Sodus Parkway south of Pipestone from Naomi Road to the Township southern border, US 31, and I-94, Naomi Road-East from Hillandale to the township line, River Road-from Pipestone to Naomi Road, and Hillandale Road-from Watson Road to Townline Road. Operation of an ORV on those roads is not permitted under any circumstance.

SECTION 5. Closure by County Road Department or Law Enforcement

- a) The Berrien County Road Department, Law Enforcement, and other state agencies and entities with power to close public roads located within the Township may close said roads to the operation of ORVs otherwise authorized pursuant to this ordinance.
- b) If a road is closed under subsection a) of this section, the Sodus Township Board of Trustees shall, as necessary, adopt a resolution amending the official ORV Map designating such road(s) as closed, unless said closure is expected to last less than six (6) months.

SECTION 6. Conditions for Operation

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the Township:

- a) At a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) By a person not less than 16 years of age.
- c) With the flow of traffic and as follows:

- i. On the right shoulder of the road.
 - ii. If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
 - iii. On the far right of the right traffic lane of the road, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.
- d) In a manner which does not interfere with traffic on the road or street.
- e) Traveling single file except when overtaking and passing another ORV.
- f) Displaying a lighted headlight, lighted taillight and brake light.
- g) Operation hours: one-half hour before sunrise until one-half hour after sunset.
- h) While the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- i) With a rear viewing mirror.
- j) With a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) With a United States Forest Service approved, spark arrester and muffler, in good working order and in constant operation.
- l) Pursuant to noise standards defined by law.
- m) Obeying all other laws relating to the operation of a vehicle in public streets including, but not limited to, following, turn signal requirements, yielding to traffic, etc.
- n) There is no operation of an ORV on sidewalks, trails, or other surfaces designed for pedestrian travel. There is no operation of an ORV in a public park or other space customarily used by pedestrians.
- o) While the operator is in possession of a valid Driver's License.

- p) Each ORV shall have a valid State of Michigan ORV sticker affixed to the ORV.

SECTION 7. Persons Under 18

A person less than 18 years of age shall not operate an ORV on a road in the Township unless they are under the direct supervision of a parent or legal guardian and the person has in his or her possession an ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

SECTION 8. *Prima Facie* Negligence

In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road or street pursuant to the Michigan Vehicle Code was in a collision on a roadway with an ORV that is not registered under the Michigan Vehicle Code, the operator of the ORV shall be considered *prima facie* negligent.

SECTION 9. Official ORV Map

The Township shall maintain a master map of all roads under its jurisdiction upon which shall be indicated those roads and parts of sections thereof which the operation of ORVs is permitted and prohibited pursuant to this ordinance. Such map shall be known as the official ORV Map and the master copy shall be kept at the Sodus Township town hall. The Township shall make a copy of the ORV Map available to interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make, or to assume any expense associated with the making of such copies. The official ORV Map on display at the Township Hall shall govern in the event of a dispute.

- a) The first official ORV Map under this ordinance shall be published within 90 days of the adoption of this Ordinance;
- b) The Sodus Township Board of Trustees may, by resolution, amend the official ORV Map as and when it deems it appropriate to do so.

SECTION 10. Agricultural

Agricultural use of an ORV shall be governed by MCL 324.81122.

SECTION 11. Funds

The Township Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund." Township Board shall appropriate revenue in the ORV Fund as provided by law. (MCL 324.81131(14)).

SECTION 12.

~~Expiration~~ *Made Permanent - effective Aug. 10, 2021*

~~This Ordinance shall cease to be effective and the permissions granted herein revoked two years after its effective date.~~

SECTION 13. **Violations and Penalties**

- A. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- B. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction pursuant to MCL 600.8727. In addition, the Court shall order the Defendant to pay the costs of repairing any damage to the environment, a road or street, or public property damaged as a result of the violation.
- C. Each day during which any violation continues shall be deemed a separate offense.
- D. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- E. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION 14. **Severability.**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 15. **Repeal.**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 16. **Effective Date.**

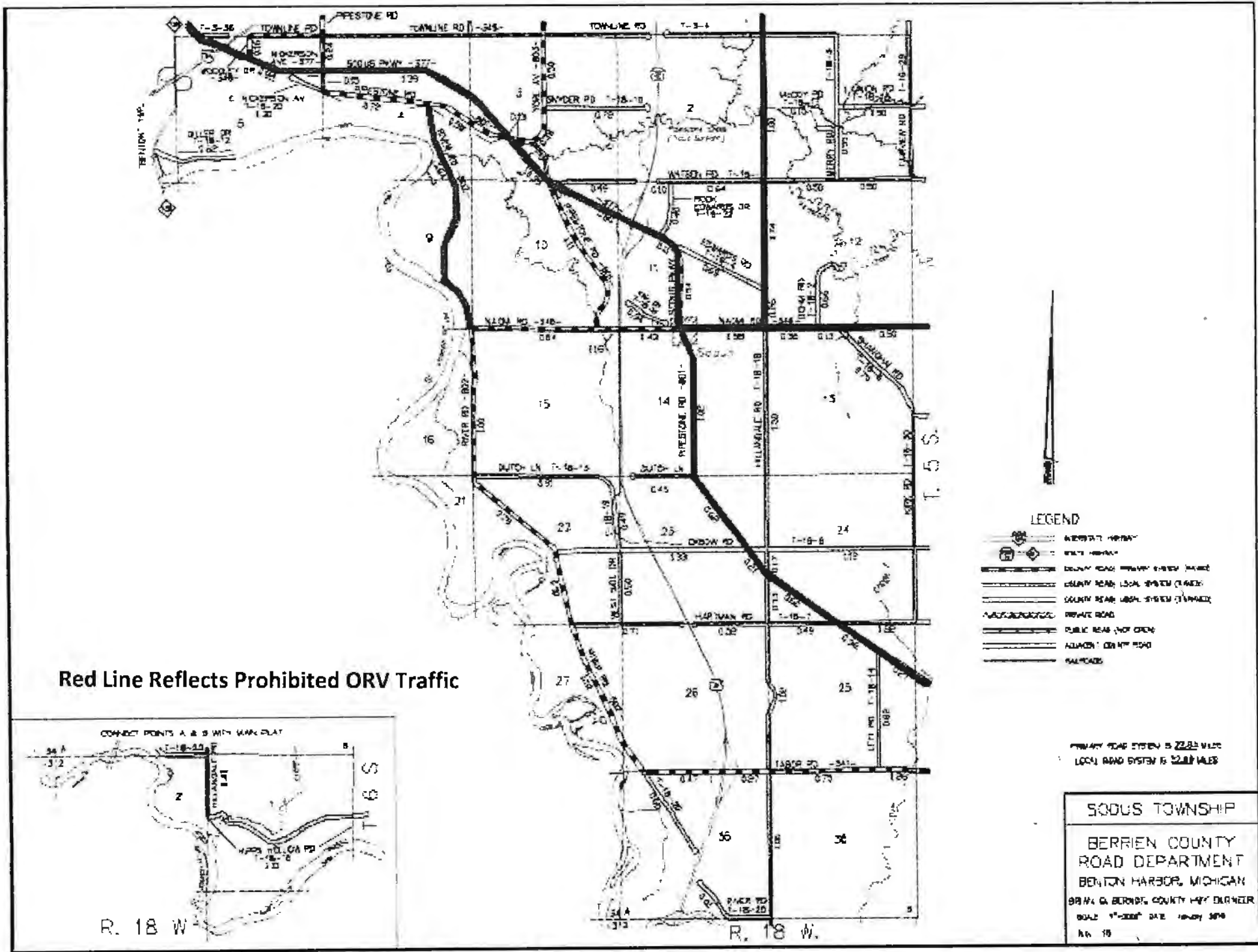
This ordinance shall take effect the 31st day after publication.

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the The Journal Era on the 21st day of August, 2019.

Dated: Aug 13, 2019

Cheryl Andres
Cheryl Andres, Township Clerk

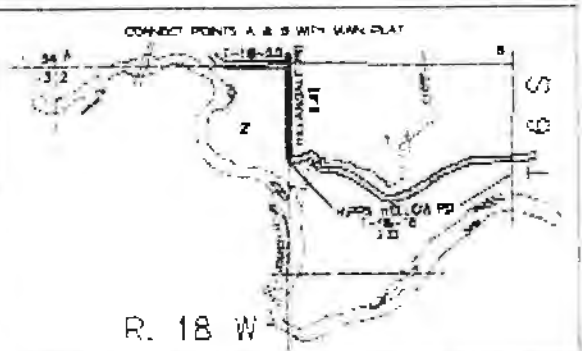


Red Line Reflects Prohibited ORV Traffic

- LEGEND**
- STATE HIGHWAY
 - COUNTY ROAD
 - COUNTY ROAD - LOCAL SYSTEM (DASH)
 - COUNTY ROAD - LOCAL SYSTEM (DASH)
 - PRIVATE ROAD
 - PUBLIC ROAD - NOT OPEN
 - ALIGNED ON HWY ROAD
 - RAILROAD

PRIMARY ROAD SYSTEM IS 22.83 MILES
 LOCAL ROAD SYSTEM IS 22.87 MILES

SODUS TOWNSHIP
 BERRIEN COUNTY
 ROAD DEPARTMENT
 BENTON HARBOR, MICHIGAN
 88 W. G. BERRIEN COUNTY HWY BARNER
 ROAD 1"=2000' DATE 10-20-2009
 No. 18



SECTION 17. Publication, Recordation.

This Ordinance or a summary shall be published as required by law in a newspaper of general circulation in the Township, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Township Supervisor and Township Clerk.

The above Ordinance was offered for adoption by Township Board Member David Chandler and seconded by Township Board Member Loyall Bennett the roll call vote being as follows:

NAME	YES	NO	ABSENT
David Chandler	<u>✓</u>	<u> </u>	<u> </u>
Cheryl Andres	<u>✓</u>	<u> </u>	<u> </u>
Karen Morgan	<u> </u>	<u> </u>	<u>✓</u>
Ken Peters	<u> </u>	<u> </u>	<u>✓</u>
Loyall Bennett	<u>✓</u>	<u> </u>	<u> </u>

THE BOARD SUPERVISOR DECLARED THIS ORDINANCE ADOPTED THIS 13th DAY OF August, 2019.

CERTIFICATION

I certify that the foregoing is a true and complete copy of the Sodus Township ORV Ordinance adopted by the Township Board at a meeting held on the ___ day of _____, 2019, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: Aug 13, 2019

Cheryl Andres
Cheryl Andres, Township Clerk

ORDINANCE NO. 39

TOWNSHIP OF SODUS, BERRIEN COUNTY, STATE OF MICHIGAN

HAZMAT AND FIRE CHARGES ORDINANCE

ADOPTED: May 9, 2023

(Effective: June 16, 2023)

An Ordinance to establish cost-recovery charges and exemptions for fire department and other emergency services pursuant to Public Act 33 of 1951, as amended (MCL 41.801 et seq.), and to provide methods for collecting those charges.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Purpose of Ordinance 39

This ordinance is adopted for the purpose of providing for the collection of fees for services to the Township of Sodus (hereinafter referred to as "the Township") in the operation of its Fire Department and other emergency services. The source of fees for services will be from those receiving direct benefits from the Township's fire protection and other emergency services. It is the further purpose of this ordinance to assist in the funding of the fire department operation and other emergency services which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the Township from the existence of a Township Fire Department and its availability to extinguish fires within the Township and perform other emergency services. It is expressly the purpose of this ordinance to provide for and promote the public health, safety, and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms.

SECTION 2. Special Definitions Pertaining to Ordinance No. 39

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bomb threat means the verbal or written threat of a bomb or other explosive device which, if discharged as threatened, would violate federal, state, or local law.

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

Cost recovery charges include the non-exhaustive list of fire protection and other emergency services enumerated in Section 3 of this article.

Downed power line or other non-HAZMAT public utility hazard response means the disabling of any transmission, distribution, or service line, cable, conduit, pipeline, wire, or the like used to provide, collect, or transport electricity, natural gas, communication, and/or electronic signals (including, but not limited to, telephone, computer, cable television, and stereo signals or electronic impulses), water or sanitary or storm sewage if the owner or party responsible for the

maintenance of such utility line does not respond within one (1) hour to a request to repair or correct such failure.

Emergency Response means providing, sending or utilizing firefighting, emergency medical and rescue services or related services and personnel by the Township, or by any other municipality, corporation, or individual operating at the request or direction of the Township in response to an incident which threatens the public health, safety, welfare, or property within the Township, including but not limited to, the non-exhaustive list of services enumerated in Section 3 of this article.

Expenses of an Emergency Response shall mean all costs incurred by the Township and individuals operating at the request or direction of the Township as a result of responding to an incident. These costs shall include reasonable charges for the use of the fire equipment and vehicles, firefighting and containment materials used at the scene of the incident, the salaries and wages of the Township personnel responding to, investigating, and preparing reports concerning the incident and reasonably related costs. These costs shall also include charges for any disposable supplies and materials used during the incident, the rental or leasing of any special equipment, the replacement cost of any Township supplies and equipment damaged, lost, or destroyed as a result of the incident, reimbursement for any special consulting and technical service, laboratory cost and any cost associated with the preparation for or actual evaluation of the area surrounding the incident. The expense of any emergency response shall also include reasonable attorney fees and any cost incurred in collecting those charges, costs, and fees authorized by this ordinance.

False alarm means any automated or manual device that requests or summons emergency assistance whether such device is activated intentionally or otherwise, in the absence of an actual need for emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the Township fire department chief. A false alarm shall not be deemed to have occurred if: (i) it was caused by an act of God, e.g., a lightning storm; or (ii) it originates from a motor vehicle or building alarm system, and it has not occurred more frequently than one (1) time within a calendar year.

Hazardous Material shall mean any material that poses an unreasonable risk to the health and safety of the public, environment or emergency personnel, if not properly controlled during handling, storage, manufacture, processing, packaging, use, disposal, or transportation and shall include, but not be limited to: explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gases, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material, or liquefied petroleum gas.

Motor vehicle means any self-propelled or towed vehicle designed and/or used on the public streets, roads, and highways to transport passengers and/or property which is required to be registered for use upon such public streets, roads, and highways. For the purposes of this article, all trailers and appurtenances attached to any motor vehicle are deemed to be a motor vehicle.

Owner shall mean the record titleholder, or their purchaser by contract, or a person or corporation having a vested or contingent interest in the premises, container, building, or vehicle in question.

Premises shall mean any structure used or intended for supporting or sheltering any use or occupancy.

Receiving direct benefits means causing, requesting, or being involved in an accident or incident within the Township limits that causes a response by the Township (e.g., a fire run) to provide fire or other emergency services.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment.

Resident shall mean any person having legal residency within Sodus Township, Michigan. Residency may be established by voter registration, driver's license, utility bill, or similar public record maintained by the Township, Berrien County, the State of Michigan, or any agency or department of the United States Federal Government. The term "resident" shall also include any individual, firm, partnership, or corporation owning real property within Sodus Township subject to the ad valorem public safety millage.

Responsible person means an individual, firm, corporation, association, partnership, entity, consortium, or joint venture responsible for cost recovery damages and receiving a direct benefit from the fire department, subject to any limitations expressly stated in Section 5 herein.

Threats of harm to oneself or others means any verbal or written threat of physical harm to oneself or another that, if carried out, would be a violation of federal, state, or local law.

Township means Sodus Township, Berrien County, Michigan and/or the Township Board.

SECTION 3. Cost Recovery Charges for Expenses from an Emergency Response.

The Owners of any property as well as any other persons receiving a direct benefit for fire protection services or other emergency services may be responsible for the costs of such services as provided under this section. Any such charges shall be in accordance with the Township's fee schedule for the expenses of an emergency response. Subject to Section 5 of this article, the following is a non-exhaustive list of fire protection services and other emergency services that are billable and collectible as "cost recovery charges" in accordance with the Township's fee schedule for this article, as established by this ordinance and approved by the Township Board:

- (a) Responding to a multi or single motor vehicle and/or pedestrian accident, or other incident involving motor vehicle(s), bicycles, and/or pedestrian(s).
- (b) Responding to a grass, rubbish, motor vehicle, aircraft, train, tree or forest, house, multi-family dwelling, hotel, motel, and/or other commercial establishment fire.
- (c) Responding to a downed power line or other non-HAZMAT public utility hazard response.

- (d) Responding to more than three (3) false alarms.
- (e) Responding to excessive requests for emergency assistance.
- (f) Responding to a bomb threat.
- (g) Responding to a threat of harm to oneself or others.
- (h) Responding to a swimming pool accident.
- (i) Responding to a release or threatened release of hazardous or toxic materials.
- (j) Responding to a release or threatened release of non-hazardous materials and/or livestock.
- (k) Responding to public health, safety, and welfare response calls.
- (l) Performing other emergency rescue services (Resident and Non-Resident).

Cost of recovery charges and expenses from an emergency response shall be due and payable to the Township within thirty (30) days after the charges are billed. This schedule of charges shall be established on the following basis:

- (i) Cost per hour (pay scale per firefighter responding to, investigating, and preparing reports concerning the incident and reasonably related costs).
- (ii) Cost per apparatus used (grass rig = __, personnel truck = __, tanker/engine = __)
- (iii) Cost of materials used (cost of materials).

When adopted by the Township Board, the schedule of charges shall be and are hereby incorporated herein. Said schedule and exemptions from charges as set forth in Section 5 may be changed from time to time by resolution of the Township Board without a formal amendment.

SECTION 4. Payment of Charges.

All of the foregoing charges and expenses of an emergency response shall be due and payable to the Township within thirty (30) days after the date services are billed; and in default of payment, the charges shall be collectible as provided herein. The Township shall cause a written bill to the property owner(s) and/or persons receiving a direct benefit from these services to be issued as soon as practicable after the incident. Upon the failure of the owner(s) and/or persons receiving a direct benefit from these services to reimburse the Township for the expense of the emergency response, the Township shall impose a late charge of one percent (1%) per month or fraction thereof. Additionally, a lien may be placed upon the relevant property for the amount of

said expenses, which lien may be collected in the same fashion and manner as real property taxes are collected in the Township. Notwithstanding the foregoing, the Township shall be empowered to maintain proceedings in any court of competent jurisdiction to collect the expenses of an emergency response, as a matured debt of the Township.

SECTION 5. Exemptions.

The following properties and services shall be exempt from the foregoing charges:

- a. The First Three (3) "false alarms" for a given property and/or property owner.
- b. Fires involving federal, state, county, township, village, and other governmental real estate and/or property.
- c. Fire services performed outside the jurisdiction of the Township under mutual aid contract with an adjoining unit of government. Notwithstanding such exemption for services provided outside the Township, the Township and other municipalities may adopt (an) ordinance(s) to impose fees for fire and emergency services runs within their respective territories under MCL 41.801 et seq., as amended.

SECTION 6. Multiple Responsible Persons and/or Properties.

When the Township renders fire protection and/or other emergency services that directly benefit more than one person or property, each person(s) and/or property owner(s) so benefitted may be liable for the payment of the full charge for such services. Provided, however, that if a court of competent jurisdiction determines that one or more persons and/or property owners who received fire protection and/or other emergency services rendered by the Township was at fault for the incident resulting in such services, then the other person(s) and/or property owner(s) involved shall not be considered "responsible persons" for the purposes of this ordinance.

The interpretation and application of this section is hereby delegated to the Township Fire Chief, and his/her decision shall be final, subject only to appeal, within the time limits provided herein for payment, to the Township Board and this section of the ordinance shall be administered so that the charges shall only be collected from persons and/or property owners who benefit from the service.

SECTION 7. Non-Applicability of the No-Fault Act.

This ordinance gives the Township authority to collect "cost recovery charges" and "expenses from an emergency response" for fire and other emergency services provided by the Township Fire Department, and within the Township, to a responsible person(s). No claim under this ordinance is for, or relates to, property damage(s). The No-Fault Act, as amended, MCL 500.3101 et seq., does not apply to, conflict with, or preempt this ordinance.

SECTION 8. Non-Applicability of the Natural Resources and Environmental Protection Act.

This ordinance gives the Township authority to collect "cost recovery charges" and "expenses from an emergency response" for fire and other emergency services provided by the Township Fire Department, and within the Township, to a responsible person(s). No claim under this ordinance is for, or relates to, the cleanup or remediation of hazardous substances, as defined in Part 201 of the Natural Resources and Environmental Protection Act ("NREPA"), as amended, MCL 324.20101 et seq. The NREPA, as amended, does not apply to, conflict with, or preempt this ordinance.

SECTION 9. Collection of Charges.

The Township Board hereby delegates the authority and responsibility for billing and collecting charges to the Township Clerks Office. The Township Clerk may, with the approval of the Township Supervisor, file suit in any court, if necessary, to collect charges in hardship cases as per Federal poverty guidelines.

SECTION 10. Non-Exclusive Charge.

The foregoing cost recovery charges and expenses from an emergency response shall not be exclusive of the charges that may be made by the Township for the cost and expense of maintaining a fire department, but shall only be supplemental thereto. Additionally, charges may be collected by the Township, through general taxation by procedures provided by law or by a special assessment established as provided by law. General Fund appropriations may also be made to cover such additional costs and expenses.

SECTION 11. Severability.

Should any provision or part of this ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

SECTION 12. Effective Date.

This ordinance shall take effect and be in force from and after date of publication.

SECTION 13. Publication.

This ordinance is ordered to be given publication in the manner prescribed by law.

SECTION 14. Adoption Date.

This ordinance is hereby declared to have been adopted by the Township Board of Sodus Township, Berrien County, Michigan at a meeting of said Board held on the 9 day, of May 2023.

Motion to Adopt ordinance

Motion by Loyall Bennett, and supported by David Chandler

That the foregoing Ordinance be adopted. Roll Call Vote.

	Yes:	No:
David Chandler	<u>X</u>	_____
Ken Peters	<u>X</u>	_____
Loyall Bennett	<u>X</u>	_____
Cheryl Andres	<u>X</u>	_____
Terry McCain	<u>X</u>	_____

Ordinance declared ADOPTED

May 9, 2023

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Sodus Township HazMat and Fire Charges Ordinance, which was duly adopted by the Township Board of Sodus, Berrien County, Michigan, on May 9, 2023, and this Ordinance was published in The Journal Era on May 17, 2023.

Cheryl Andres, Sodus, Twp Clerk

Cheryl Andres, Sodus Township Clerk

Township of Sodus Berrien County, Michigan

Ordinance for Adoption of the International Property Maintenance Code

ORDINANCE 40

An ordinance establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupation and use and the demolition of such structures; Known as the Property Maintenance Code.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1. Adoption of 2021 International Property Maintenance Code

That a certain document, three (3) copies of which are on file with the office of the clerk of Sodus Township, being marked and designated as the **International Property Maintenance Code** as published by the International Code Council, Inc., be and is hereby adopted as the Property Maintenance Code of Sodus Township, in the State of Michigan; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said **Property Maintenance Code** are hereby referred to, adopted, and made a part hereof, as set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

The International Property Maintenance Code will be reviewed by Sodus Township every three (3) years for revisions.

Sections 2. Revisions and Insertions:

Section 101.1 Insert: Sodus Township

Section 103.1 Insert: The Building & Zoning Inspector & Ordinance Officer, Township Supervisor will be the administrator and enforcement of the provisions of this code.

Section 302.4 Insert: Premises and Exterior property shall be maintained free of weeds or plant growth in excess of 10 inches.

Section 304.14 Insert: May 1st to October 1st

Section 602.3 Insert: September 1st to July 1st

Section 602.4 Insert: September 1st to July 1st

Section 3 Repealed:

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Rights Restored:

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. **Sodus Township** hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses and phrases be declared unconstitutional.

Section 5. Procedure:

That the Township Clerk shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and to be in forced from and after its approval as required by law.

Section 6. Effective Date:

This ordinance shall take immediate effect. All other ordinances of the Township heretofore or hereafter adopted shall hereafter be supplemented by the terms of this ordinance.

Section 7. Means of Appeal, refer to Section 107 in the International Property Maintenance Code Book.

Section 8. Exception, this ordinance does not apply and shall not be enforceable to land that is zoned Ag. Agriculture and/or used as agriculture land. This ordinance does apply and shall be enforceable to the front, side and rear yards (as defined in the Township Zoning Ordinance) of the land in an Ag (Agriculture) district or land use Ag Agriculture land.”

Section 9. This Ordinance or summary shall be published as required by in The Journal Era, a newspaper of general circulation in the Township, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Township Supervisor and Township Clerk.

Violation and Penalties:

- A. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the enforcement of this ordinance pursuant to MCL 600.87727
- B. Each day during which any violation continues shall be deemed a separate violation.

- C. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- D. This ordinance shall be administered and enforced by the Building Official, Ordinance officer of the Township or by such other person(s) as designated by the Township Board from time to time.

CERTIFICATION

A motion that said "Ordinance for Adoption of the International Property Maintenance Code" be enacted was made by David Chandler, and supported by Ken Peters, at a regular meeting of the Sodus Township Board on the 9th day of May 2023.

The names of the Township Board members and their votes are as follows:

Name:	YES	NO
Loyall Bennett	<u>X</u>	<u> </u>
Ken Peters	<u>X</u>	<u> </u>
Terry McCain	<u> </u>	<u>X</u>
Cheryl Andres	<u>X</u>	<u> </u>
David Chandler	<u>X</u>	<u> </u>

I hereby certify the foregoing is a true and correct copy of the Ordinance for Adoption of the **International Property Maintenance Code** for **Sodus Township, Berrien County, Michigan**, duly adopted on the **8th of May, 2023**.

Cheryl Andres Cheryl Andres, Sodus Township Clerk

I hereby certify that the foregoing ordinance was published in the Journal Era Berrien Springs, Michigan, on the 17th day of May, 2023

Cheryl Andres
Cheryl Andres. Clerk / Sodus Township

**SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN**

**RESOLUTION TO ADOPT AN ORDINANCE TO IMPOSE A TEMPORARY
MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS
FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES AND TO
PETITION PLANNING COMMISSION TO INITIATE ZONING ORDINANCE
AMENDMENTS**

At a regular meeting of the Township Board for the Township of Sodus, Berrien County, Michigan, held on the 10th day of October 2023, at 7:00 p.m.

PRESENT: David Chandler, Cheryl Andres, Terry McCain, Loyall Bennett, Ken Peters

ABSENT:

The following preamble and resolution were offered by David Chandler and seconded by Cheryl Andres.

WHEREAS, the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, authorizes Sodus Township (the "Township") to adopt reasonable regulations to control the establishment and use of Solar Energy Facilities; and

WHEREAS, "Solar Energy Facilities," for purposes of this moratorium, means an area of land principally used to convert solar energy to electricity which includes, but is not limited to, all the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system which extends to any fencing. This term applies to solar photovoltaic systems used for the purpose of generating and selling energy to a public utility off site and does not apply to private commercial or residential uses where the energy is used only for supplying supplemental electricity for on-site uses; and

WHEREAS, the Township has become aware of an increase in Solar Energy Facilities in the region, which is an emerging land use not sufficiently contemplated in the current Master Plan nor by the Township's Zoning Ordinance; and

WHEREAS, it has recently come to the attention of the Sodus Township Board that, without a thorough review of the Township's current Zoning Ordinance, the establishment of Solar Energy Facilities within Sodus Township may interfere with other land uses, impair property values, impede current Township zoning goals, and negatively impact the environment; and

WHEREAS, integration of Solar Energy Facilities within the Township's existing land uses requires suitable regulations and controls to ensure compliance with the Township's Master Plan, among other things, by preserving agricultural property, and for the protection of the public health, safety, and welfare of all of the Township's residents; and

WHEREAS, the Township Board believes it is prudent and wise in light of the emergence of Solar Energy Facilities to take time to consider amendments to its Master Plan and Zoning Ordinance to assure proper locating and regulation of Solar Energy Facilities in the Township to better protect the public health, safety, and welfare of Township residents; and

WHEREAS, the Township wishes to direct the Planning Commission to consider regulations applicable to Solar Energy Facilities in the Township and make a recommendation to the Township Board as to proposed amendments to the Zoning Ordinance; and

WHEREAS, the Township further wishes to consider amendments to its existing Zoning Ordinance to, among other things, regulate the establishment and use of Solar Energy Facilities; and

WHEREAS, the Township has a legitimate public purpose in addressing the proper and consistent regulation of all Solar Energy Facilities to, among other things, minimize nuisances from such developments on the public; and

WHEREAS, the research, review, and drafting of ordinance(s) capable of accomplishing proper and consistent regulation of Solar Energy Facilities will take several months; and

WHEREAS, the Township finds that it is necessary and reasonable to establish a moratorium upon the issuance of any and all permits, licenses, and approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment and use of Solar Energy Facilities for one (1) year or until the Township amends its Zoning Ordinance regulating Solar Energy Facilities and such amendments take effect, whichever occurs first; and

WHEREAS, the Township finds that adopting such a moratorium is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, the Township Board of Trustees of the Township of Sodus resolves as follows:

1. The Township adopts Ordinance No. 41, An Ordinance to Impose a Temporary Moratorium on the Issuance of Permits, Licenses, or Approvals for, or for Any Construction of, Solar Energy Facilities (the "Ordinance," attached as **Exhibit A**).

2. The Ordinance shall be filed with the Township Clerk.

3. The Township Clerk shall publish notice of adoption of the Ordinance (in substantially the form of **Exhibit B**) in a newspaper of general circulation in the Township.

4. Additionally, the Township Board hereby petitions the Township Planning Commission to initiate amendments to the Zoning Ordinance to regulate Solar Energy Facilities, which should include (but not be limited to) appropriate regulations for private systems and commercial systems, including regulations concerning location, height, setback, landscaping, site plan review, interconnection with existing electrical systems, and decommissioning. The Township Board requests that the Planning Commission thereafter make a recommendation to the Township Board regarding such proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

5. Any prior resolution that conflicts with this Resolution is repealed upon the effective date of the Ordinance, but only to the extent necessary to give this Resolution and the Ordinance full force and effect.

A vote on the above Resolution was taken and was as follows:

ADOPTED:

YEAS: David Chandler, Cheryl Andres, Loyall Bennett, Ken Peters

NAYS: Terry McCain

CERTIFICATION

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Sodus, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a regular meeting held on the 10th day of October 2023.



Cheryl Andres

Cheryl Andres, Township Clerk

EXHIBIT A

SODUS TOWNSHIP

BERRIEN COUNTY, MICHIGAN

AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES

ORDINANCE NO. 41

An Ordinance to protect the public health, safety, and welfare by imposing a limited moratorium on the development of Solar Energy Facilities in the Township while the Township Planning Commission considers possible updates to its Master Plan and its Zoning Ordinance; and to allow the Township to study the zoning regulations pertaining thereto and possible revisions to the current Zoning Ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1. Definition. “Solar Energy Facilities” means an area of land principally used to convert solar energy to electricity which includes, but is not limited to, all the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system which extends to any fencing. This term applies to solar photovoltaic systems used for the purpose of generating and selling energy to a public utility off site and does not apply to private commercial or residential uses where the energy is used only for supplying supplemental electricity for on-site uses.

Section 2. Purpose and Findings. The purpose of this moratorium is to provide sufficient time for the Sodus Township Planning Commission to fully explore, analyze, research, and make recommendations to the Sodus Township Board regarding potential zoning regulations applicable to Solar Energy Facilities. In support of this Ordinance, the Sodus Township Board has determined the following:

A. The Township has become aware of an increase of Solar Energy Facilities in the region, which is a more recent and emerging land use. It is clear that interest in these Solar Energy Systems is increasing across the state, and that applications for the construction and location of Solar Energy Systems within the Township may be imminent.

B. The integration of these Solar Energy Facilities within the Township’s existing land uses requires suitable regulations and controls for the protection of the public health, safety, and welfare of all of the Township’s residents.

C. The Township Board is authorized to establish reasonable requirements and regulations to govern and control Solar Energy Facilities within the Township to protect the public health, safety, and welfare of the Township’s residents and their property.

D. Pursuant to the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, the Township has adopted a Zoning Ordinance.

E. The Township Zoning Ordinance has no provisions for Solar Energy Facilities. Therefore, these facilities and their systems are neither a permitted nor special land use in the Township.

F. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Solar Energy Facilities is necessary in order to better protect the public health, safety, and welfare of the Township's residents.

G. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary to allow the Township Planning Commission time to fully explore, analyze, research, and develop proposed zoning amendments and make recommendations to the Sodus Township Board regarding potential amendments to the Township's Zoning Ordinance applicable to Solar Energy Facilities.

H. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment and use of Solar Energy Facilities for one (1) year or until the Township amends its Zoning Ordinance regulating Solar Energy Facilities and such amendments take effect, whichever occurs first.

Section 3. Moratorium. A moratorium is hereby imposed upon the issuance of any and all permits, licenses, or approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment or use of Solar Energy Facilities, so long as this Ordinance is in effect.

Section 4. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance shall remain in effect for one (1) year following the effective date of this Ordinance, or until Solar Energy Facility regulatory amendments to the Township's Zoning Ordinance become effective, whichever occurs first. Before this moratorium expires, the Township may, by resolution, extend the moratorium for up to six (6) months to allow sufficient time to complete amendments to its Zoning Ordinance, if necessary. If an extension is adopted, then the Township will publish notice of the extension.

Section 5. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 6. Repealer Clause. Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect. However, this Ordinance shall not be construed as a repeal or an amendment to the Township Zoning Ordinance; rather, it is a temporary moratorium until such time as this Ordinance expires

or amendments to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first.

Section 7. Effective Date. This Ordinance shall become effective immediately following publication on October 18, 2023.

EXHIBIT B

SODUS TOWNSHIP

BERRIEN COUNTY, MICHIGAN

NOTICE OF ORDINANCE ADOPTION:

AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES

On October 10, 2023, Sodus Township (the "Township") adopted Ordinance No. 41, An Ordinance to Impose a Temporary Moratorium on the Issuance of Permits, Licenses, or Approvals for, or for Any Construction of, Solar Energy Facilities (the "Ordinance"). The following is a summary of the Ordinance. A true copy of the Ordinance is available at the Officer of the Township Clerk at the Township Hall, 4056 King Drive, Sodus, MI 49126.

Section 1. Definition. This section defines "Solar Energy Facilities."

Section 2. Purpose and Findings. This section describes the purpose and findings of the Ordinance made by the Township Board. This section further states that imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow time for the Township Planning Commission to fully explore, analyze, research and make recommendations to the Sodus Township Board regarding potential zoning regulations applicable to Solar Energy Facilities.

Section 3. Moratorium. This section imposes a moratorium upon the issuance of any and all permits, licenses, or approvals for, or for any construction of, any Solar Energy Facilities on any property under the jurisdiction of the Township's Zoning Ordinance, so long as this Ordinance is in effect.

Section 4. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance shall remain in effect for one (1) year following the effective date of this Ordinance, or until amendments to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first. Before the moratorium imposed by this Ordinance expires, the Township Board may, by resolution, extend the moratorium for an additional six (6) months, or some lesser period of time as the Township Board deems appropriate.

Section 5. Validity and Severability. This section provides that if any portion of this Ordinance is found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 6. Repealer Clause. This section provides that any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give the Ordinance full force and effect. Notwithstanding, this section further provides that the Ordinance should not be construed as a repeal or an amendment to the Township Zoning Ordinance; rather, the Ordinance is a temporary moratorium until such time as the Ordinance expires or amendments

to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first.

Section 7: Effective Date. This section provides that the Ordinance shall become effective immediately following publication on October 18 in The Journal Era.

Cheryl Andres
Sodus Township Clerk
4056 King Drive
Sodus, MI 49126
www.sodustwp.org

SODUS TOWNSHIP

BERRIEN COUNTY, MICHIGAN

ORD #41

Res #24-2023

RESOLUTION TO ADOPT AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES AND TO PETITION PLANNING COMMISSION TO INITIATE ZONING ORDINANCE AMENDMENTS

At a regular meeting of the Township Board for the Township of Sodus, Berrien County, Michigan, held on the 10th day of October 2023, at 7:00 p.m.

PRESENT: David Chandler, Cheryl Andres, Terry McCain, Loyall Bennett, Ken Peters

ABSENT:

The following preamble and resolution were offered by David Chandler and seconded by Cheryl Andres.

WHEREAS, the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, authorizes Sodus Township (the "Township") to adopt reasonable regulations to control the establishment and use of Solar Energy Facilities; and

WHEREAS, "Solar Energy Facilities," for purposes of this moratorium, means an area of land principally used to convert solar energy to electricity which includes, but is not limited to, all the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system which extends to any fencing. This term applies to solar photovoltaic systems used for the purpose of generating and selling energy to a public utility off site and does not apply to private commercial or residential uses where the energy is used only for supplying supplemental electricity for on-site uses; and

WHEREAS, the Township has become aware of an increase in Solar Energy Facilities in the region, which is an emerging land use not sufficiently contemplated in the current Master Plan nor by the Township's Zoning Ordinance; and

WHEREAS, it has recently come to the attention of the Sodus Township Board that, without a thorough review of the Township's current Zoning Ordinance, the establishment of Solar Energy Facilities within Sodus Township may interfere with other land uses, impair property values, impede current Township zoning goals, and negatively impact the environment; and

WHEREAS, integration of Solar Energy Facilities within the Township's existing land uses requires suitable regulations and controls to ensure compliance with the Township's Master Plan, among other things, by preserving agricultural property, and for the protection of the public health, safety, and welfare of all of the Township's residents; and

WHEREAS, the Township Board believes it is prudent and wise in light of the emergence of Solar Energy Facilities to take time to consider amendments to its Master Plan and Zoning Ordinance to assure proper locating and regulation of Solar Energy Facilities in the Township to better protect the public health, safety, and welfare of Township residents; and

WHEREAS, the Township wishes to direct the Planning Commission to consider regulations applicable to Solar Energy Facilities in the Township and make a recommendation to the Township Board as to proposed amendments to the Zoning Ordinance; and

WHEREAS, the Township further wishes to consider amendments to its existing Zoning Ordinance to, among other things, regulate the establishment and use of Solar Energy Facilities; and

WHEREAS, the Township has a legitimate public purpose in addressing the proper and consistent regulation of all Solar Energy Facilities to, among other things, minimize nuisances from such developments on the public; and

WHEREAS, the research, review, and drafting of ordinance(s) capable of accomplishing proper and consistent regulation of Solar Energy Facilities will take several months; and

WHEREAS, the Township finds that it is necessary and reasonable to establish a moratorium upon the issuance of any and all permits, licenses, and approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment and use of Solar Energy Facilities for one (1) year or until the Township amends its Zoning Ordinance regulating Solar Energy Facilities and such amendments take effect, whichever occurs first; and

WHEREAS, the Township finds that adopting such a moratorium is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, the Township Board of Trustees of the Township of Sodus resolves as follows:

1. The Township adopts Ordinance No. 41, An Ordinance to Impose a Temporary Moratorium on the Issuance of Permits, Licenses, or Approvals for, or for Any Construction of, Solar Energy Facilities (the "Ordinance," attached as **Exhibit A**).
2. The Ordinance shall be filed with the Township Clerk.
3. The Township Clerk shall publish notice of adoption of the Ordinance (in substantially the form of **Exhibit B**) in a newspaper of general circulation in the Township.
4. Additionally, the Township Board hereby petitions the Township Planning Commission to initiate amendments to the Zoning Ordinance to regulate Solar Energy Facilities, which should include (but not be limited to) appropriate regulations for private systems and commercial systems, including regulations concerning location, height, setback, landscaping, site plan review, interconnection with existing electrical systems, and decommissioning. The Township Board requests that the Planning Commission thereafter make a recommendation to the Township Board regarding such proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

5. Any prior resolution that conflicts with this Resolution is repealed upon the effective date of the Ordinance, but only to the extent necessary to give this Resolution and the Ordinance full force and effect.

A vote on the above Resolution was taken and was as follows:

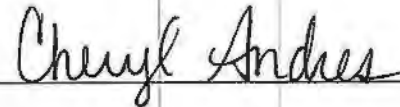
ADOPTED:

YEAS: David Chandler, Cheryl Andres, Loyall Bennett, Ken Peters

NAYS: Terry McCain

CERTIFICATION

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Sodus, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a regular meeting held on the 10th day of October 2023.



Cheryl Andres, Township Clerk

EXHIBIT A

SODUS TOWNSHIP

BERRIEN COUNTY, MICHIGAN

AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES

ORDINANCE NO. 41

An Ordinance to protect the public health, safety, and welfare by imposing a limited moratorium on the development of Solar Energy Facilities in the Township while the Township Planning Commission considers possible updates to its Master Plan and its Zoning Ordinance; and to allow the Township to study the zoning regulations pertaining thereto and possible revisions to the current Zoning Ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1. Definition. "Solar Energy Facilities" means an area of land principally used to convert solar energy to electricity which includes, but is not limited to, all the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system which extends to any fencing. This term applies to solar photovoltaic systems used for the purpose of generating and selling energy to a public utility off site and does not apply to private commercial or residential uses where the energy is used only for supplying supplemental electricity for on-site uses.

Section 2. Purpose and Findings. The purpose of this moratorium is to provide sufficient time for the Sodus Township Planning Commission to fully explore, analyze, research, and make recommendations to the Sodus Township Board regarding potential zoning regulations applicable to Solar Energy Facilities. In support of this Ordinance, the Sodus Township Board has determined the following:

A. The Township has become aware of an increase of Solar Energy Facilities in the region, which is a more recent and emerging land use. It is clear that interest in these Solar Energy Systems is increasing across the state, and that applications for the construction and location of Solar Energy Systems within the Township may be imminent.

B. The integration of these Solar Energy Facilities within the Township's existing land uses requires suitable regulations and controls for the protection of the public health, safety, and welfare of all of the Township's residents.

C. The Township Board is authorized to establish reasonable requirements and regulations to govern and control Solar Energy Facilities within the Township to protect the public health, safety, and welfare of the Township's residents and their property.

D. Pursuant to the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, the Township has adopted a Zoning Ordinance.

E. The Township Zoning Ordinance has no provisions for Solar Energy Facilities. Therefore, these facilities and their systems are neither a permitted nor special land use in the Township.

F. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Solar Energy Facilities is necessary in order to better protect the public health, safety, and welfare of the Township's residents.

G. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary to allow the Township Planning Commission time to fully explore, analyze, research, and develop proposed zoning amendments and make recommendations to the Sodus Township Board regarding potential amendments to the Township's Zoning Ordinance applicable to Solar Energy Facilities.

H. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment and use of Solar Energy Facilities for one (1) year or until the Township amends its Zoning Ordinance regulating Solar Energy Facilities and such amendments take effect, whichever occurs first.

Section 3. Moratorium. A moratorium is hereby imposed upon the issuance of any and all permits, licenses, or approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment or use of Solar Energy Facilities, so long as this Ordinance is in effect.

Section 4. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance shall remain in effect for one (1) year following the effective date of this Ordinance, or until Solar Energy Facility regulatory amendments to the Township's Zoning Ordinance become effective, whichever occurs first. Before this moratorium expires, the Township may, by resolution, extend the moratorium for up to six (6) months to allow sufficient time to complete amendments to its Zoning Ordinance, if necessary. If an extension is adopted, then the Township will publish notice of the extension.

Section 5. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 6. Repealer Clause. Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect. However, this Ordinance shall not be construed as a repeal or an amendment to the Township Zoning Ordinance; rather, it is a temporary moratorium until such time as this Ordinance expires

or amendments to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first.

Section 7. Effective Date. This Ordinance shall become effective immediately following publication on October 18, 2023.

EXHIBIT B

SODUS TOWNSHIP

BERRIEN COUNTY, MICHIGAN

NOTICE OF ORDINANCE ADOPTION:

AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, SOLAR ENERGY FACILITIES

On October 10, 2023, Sodus Township (the "Township") adopted Ordinance No. 41, An Ordinance to Impose a Temporary Moratorium on the Issuance of Permits, Licenses, or Approvals for, or for Any Construction of, Solar Energy Facilities (the "Ordinance"). The following is a summary of the Ordinance. A true copy of the Ordinance is available at the Office of the Township Clerk at the Township Hall, 4056 King Drive, Sodus, MI 49126.

Section 1. Definition. This section defines "Solar Energy Facilities."

Section 2. Purpose and Findings. This section describes the purpose and findings of the Ordinance made by the Township Board. This section further states that imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow time for the Township Planning Commission to fully explore, analyze, research and make recommendations to the Sodus Township Board regarding potential zoning regulations applicable to Solar Energy Facilities.

Section 3. Moratorium. This section imposes a moratorium upon the issuance of any and all permits, licenses, or approvals for, or for any construction of, any Solar Energy Facilities on any property under the jurisdiction of the Township's Zoning Ordinance, so long as this Ordinance is in effect.

Section 4. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance shall remain in effect for one (1) year following the effective date of this Ordinance, or until amendments to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first. Before the moratorium imposed by this Ordinance expires, the Township Board may, by resolution, extend the moratorium for an additional six (6) months, or some lesser period of time as the Township Board deems appropriate.

Section 5. Validity and Severability. This section provides that if any portion of this Ordinance is found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 6. Repealer Clause. This section provides that any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give the Ordinance full force and effect. Notwithstanding, this section further provides that the Ordinance should not be construed as a repeal or an amendment to the Township Zoning Ordinance; rather, the Ordinance is a temporary moratorium until such time as the Ordinance expires or amendments

to the Township Zoning Ordinance regulating Solar Energy Facilities take effect, whichever occurs first.

Section 7: Effective Date. This section provides that the Ordinance shall become effective immediately following publication on October 18 in The Journal Era.

Cheryl Andres
Sodus Township Clerk
4056 King Drive
Sodus, MI 49126
www.sodustwp.org

SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 42

Adopted: 2-13-2024

Published: 2-21-2024

Effective: 3-14-2024

AN ORDINANCE TO AMEND THE SODUS TOWNSHIP ZONING ORDINANCE TO ADD DEFINITIONS RELATED TO GROUND-MOUNTED SOLAR ENERGY SYSTEMS AND ESTABLISH STANDARDS FOR PRIVATE COMMERCIAL OR RESIDENTIAL USES THEREOF WHERE THE ENERGY IS USED ONLY FOR SUPPLYING SUPPLEMENTAL ELECTRICITY FOR ON-SITE USES; AND TO CLARIFY THAT A GROUND-MOUNTED SOLAR ENERGY SYSTEM CONSTITUTES AN ACCESSORY BUILDING, STRUCTURE, AND/OR USE UNDER SECTION 18.02 OF THE ZONING ORDINANCE AND SUBJECT TO THE SCHEDULE OF ZONING DISTRICT REGULATIONS IN SECTION 17.01 OF THE ZONING ORDINANCE.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1. Amendment of Article XVIII: Supplementary District Regulations.

Section 18.02 Supplementary District Regulations of the Zoning Ordinance is hereby amended to include accessory ground-mounted solar energy systems and ground-mounted solar energy systems as accessory buildings for purposes of the Sodus Township Zoning Ordinance. For purposes of this Ordinance, an "accessory ground-mounted solar energy system" is defined as a ground-mounted solar energy system that generates electricity for use on the site of which the solar energy system is located. A "ground-mounted solar energy system" is further defined as a solar energy system mounted on support posts, like a rack or pole, that are attached to or rest on the ground.

Section 2. Amendment of Article XVII: Scheduling of Zoning District Regulations.

Section 17.01 Yard Setback, Building Height, and Lot Size Requirements is hereby amended to clarify that accessory ground-mounted solar energy systems and ground-mounted solar energy systems shall follow the setback requirements applicable to Accessory Buildings under Section 18.02. This section is further amended to clarify that the total height of an accessory ground-mounted solar energy system or ground-mounted solar energy system shall not exceed 12 feet measured from the ground to the top of the system when oriented at maximum tilt.

Cheryl Andres
Sodus Township Clerk

**SODUS TOWNSHIP
BERRIEN COUNTY, MICHIGAN**

RESOLUTION NUMBER 8-2024

**RESOLUTION TO AMEND THE SODUS TOWNSHIP ZONING ORDINANCE
RELATED TO GROUND-MOUNTED ENERGY SYSTEMS STANDARDS FOR
PRIVATE COMMERCIAL OR RESIDENTIAL USES UNDER 18.02 AND 17.01 OF THE
ZONING ORDINANCES.**

The Sodus Township Board of Trustees held a public meeting in accordance with the provisions of the open meeting act, act 267 of 1976, on the 13th of February 2024.

Present: David Chandler, Cheryl Andres, Terry McCain, Loyall Bennett, Ken Peters
Absent: _____

WHEREAS: Sodus Township has established Zoning Ordinances, adopted July 22 2008.

WHEREAS: Sodus Township has amended to Zoning Ordinance to include all Ground-Mounted Solar Energy Systems and establish standards for private commercial or residential supplement electricity for on-site uses.

WHEREAS: To clarify that a ground-mounted energy system constitutes an accessory building, structure, and/or use under section 18:02 and 17:01 of the Zoning Ordinance.

WHEREAS: Amendment of Article XVIII: Section 18.02 Supplementary District Regulations of the Zoning ordinance is hereby amended to include accessory ground-mounted solar energy systems.

WHEREAS: Amendment of Article XVII: Section 17.01 Yard setback, Building Height, and lot Size requirements, further amended to clarify that the total height of an accessory ground-mounted solar energy system shall not exceed 12 feet.

NOW, THEREFORE, BE IT RESOLVED that the Sodus Township Board of Trustees votes to adopt the above amend Zoning Ordinances.

The foregoing resolution offered by Board Member David Chandler

Second offered by Board Member Loyall Bennett

Upon roll call vote, the following voted:

	AYE:	NAY:
David Chandler	<u>X</u>	_____
Cheryl Andres	<u>X</u>	_____
Terry McCain	<u>X</u>	_____
Ken Peters	<u>X</u>	_____
Loyall Bennett	<u>X</u>	_____

The Supervisor David Chandler declared the resolution adopted.

Cheryl Andres

(Cheryl Andres), Clerk
Date: Feb. 13, 2024

Certification:

I hereby certify that the forgoing is true and complete copy of a resolution adopted by the Township Board of Sodus, County of Berrien, Michigan by a roll call vote at a meeting held on the 13th day of February 2024 at which meeting a quorum was present, and that this resolution to take place 30 days after vote was taken. A complete copy of this resolution is available for viewing at the Sodus Township Hall, public notice of said meeting was given pursuant to and in compliance with the Open Meeting Act, Act No. 267 of the public Acts of Michigan 1976 (MCL 15.261 et seq.)

Cheryl Andres

Sodus Township Clerk

Cheryl Andres
Sodus Township Clerk
4056 King Drive
PO Box 176
Sodus, Michigan 49126

marijuana facilities are located in their jurisdiction as well as the number of facilities, if they choose to limit. Townships that want to allow any medical marijuana facilities must "opt in" and adopt an ordinance before any individual or entity could apply to the state for one of five license categories--grower, processor, secure transporter, provisioning center and safety compliance facility. No action is required for townships to keep such facilities out. Without a local ordinance, the state could not issue a license for any facility within that local unit. Townships could also further regulate noise, lighting, setback requirements and other aspects of medical marijuana facilities. Additionally, a township may charge an annual licensing fee of up to \$5,000 and would receive a portion of a new 3 percent tax if it has a facility.



TIFA capture and reporting requirements could change

A package of bills discussed this week would overhaul the capture, reporting, transparency and penalty requirements for tax increment finance authorities (TIFAs). [HBs 5851-5855](#), under lead sponsor Rep. Lee Chatfield (R-Levering), were the subject of testimony in the House Local Government Committee this week. Together, the package of bills would increase reporting requirements for TIFAs to the state and create new transparency reporting requirements. Municipalities with a TIFA would be required to maintain a website with access to specific records and documents. Authority documents required to be posted include the budget, audit, meeting minutes, all contracts, any events and promotional materials. While authorities are subject to the OMA, the legislation requires specific notification (at least 20 days' public notice) to those units where tax capture is occurring for one annual informational meeting. The TIFA's annual report required content would be expanded, and a copy would be required to be sent to all tax-levying units. Additionally, the package would eliminate the ability for authorities, including brownfields, to capture special voted mills approved after Dec. 31, 2016--similar to what was done for the Detroit Zoo and Detroit Institute of Arts. TIFAs would also be limited to holding revenues for up to five years, with exceptions. MTA testified in opposition to the bill as townships have a wide variety of TIFAs, and a cookie-cutter approach will not work. While MTA supports transparency and compliance with reporting requirements, we have a number of questions and concerns with the bills' current language. MTA is working with the committee chair on amendments that will improve and clarify the bills.



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* [Asphalt Materials, Inc.](#)

* [Bauckham, Sparks, Thall, Seeber & Kaufman, PC](#)

* [Consumers Energy](#)

* [Fahey Schultz Burzuch Rhodes PLC](#)

* [Foster, Swift, Collins & Smith, P.C.](#)

* [ITC Holdings Corp.](#)

* [Mika Meyers, PLC](#)

Bills preempt local authority over urban livestock



Township authority over urban livestock could be limited further under two newly introduced bills. [SB 1031](#), sponsored by Sen. Joe Hune (R-Hamburg Twp.), and [SB 1032](#), sponsored by Sen. Rebekah Warren (D-Ann Arbor), await action by the Senate Agriculture Committee. Together, the bills would create an advisory committee to recommend guidelines for raising livestock in urban and suburban areas. The Michigan Commission of Agriculture and



Rural Development would take those recommendations and establish guidelines for urban livestock. Then, townships and other local units of government would be prohibited from adopting ordinances regulating the raising of suburban/urban livestock unless the zoning ordinance provisions are consistent with the commission's guidelines, as well as the Right to Farm Act and the Generally Accepted Agricultural and Management Practices. While MTA has not yet had the opportunity to take a position on the bills, we have concerns with the preemption of local authority. We will continue working with lawmakers to minimize the impact on townships.

Medical benefits could be offered to families of slain officers

Surviving spouses and dependent children of slain public safety officers may soon be eligible for continued medical coverage by the state. [SB 218](#), sponsored by Sen. Wayne Schmidt (R-Traverse City), was passed by the House this week with MTA's support and returned to the Senate for concurrence. Currently, when a public safety officer is killed in the line of duty, his or her spouse and dependents are eligible for a one-time payment of \$25,000, but their health care benefits are immediately terminated. SB 218 would amend the act to provide the spouse and dependents with health care coverage for up to five years. The surviving spouse and dependents would not be eligible under certain circumstances, such as if they qualified for and received comparable coverage elsewhere, or if they received a medical benefit plan through the state retirement system.

Legal notice fees could rise under bill

Newspaper legal notice fees could increase every year under a bill reported by the House Judiciary Committee this week. [HB 5522](#), sponsored by Rep. Peter Lucido (R-Shelby Chtr. Twp.), next moves to the full House for consideration. Currently, fees for publishing a legal notice in a newspaper are required to be adjusted for inflation, but only for five years. HB 5522 would remove the five-year limitation, allowing the fees to be adjusted annually. MTA will continue to update members as this bill moves through the Legislative process.



Next listening tour stop coming next month

The next stop of the governor's [21st Century Infrastructure Commission's](#) listening tour is scheduled for **Friday, Sept. 23**, in Detroit. Township officials can provide their input on how to improve Michigan's infrastructure at the event, which will be held from 4-6 p.m. at the Department of Natural Resources Outdoor Adventure Center, 1801 Atwater St., Detroit. This is the third and final listening tour stop designed to gather input from local officials and residents across Michigan on the current state of Michigan's infrastructure, the infrastructure system citizens envision, and how the state can work with residents to close the gap between the two. The input gathered will help shape the commission's final report and recommendations, due to the governor by Nov. 30, 2016. Registration is capped at 150 people, so [RSVP](#) today.



Home > Answer Center > MTA Sample Ordinance Enforcement Officer Ordinance



MTA Sample Ordinance Enforcement Officer Ordinance

Answer Center

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An ordinance to establish the office of Ordinance Enforcement Officer; to prescribe the duties of said office; to authorize the Township Board to appoint any person or persons to said office, and to amend any ordinances of _____ Township which conflict with the provisions hereof.

THE TOWNSHIP OF _____, _____ COUNTY, MICHIGAN, ORDAINS:

Section 1: Ordinance Enforcement Officer

There is hereby established the office of Ordinance Enforcement Officer within the Township of _____, _____ County, Michigan.

Section 2: Appointment

The _____ Township Board is hereby authorized, by resolution, at any regular meeting of said Board, to appoint any person or persons to the office of Ordinance Enforcement Officer for such term or terms as may be designated in said resolution. Said Board may further, by resolution, remove any person from said office, in the discretion of said Board.

Section 3: Duties

The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of _____ Township, whether currently or hereafter enacted, and whether such ordinances specifically designate a different official to enforce the same or do not designate any particular enforcing officer. Where a particular officer is so designated in any such ordinance, the authority of the Ordinance Enforcement Officer to enforce the same shall be in addition and supplementary to the authority granted to such other specific officer. Any ordinance-enforcing authority of *(the Township Supervisor/Superintendent and any other)* officers specifically designated in any Township ordinance *(or the Charter Township Act, Public Act 359 of 1947, as amended (MCL 42.10))* shall continue in full force and effect and shall in no way be diminished or impaired by the terms of the within ordinance.

Section 4: Definitions

The ordinance enforcement duties herein authorized shall include, among others, the following:

Investigating ordinance violations;

Serving notice of violations;

Serving appearance tickets as authorized under Chapter 4 of the Code of Criminal Procedure Act, Public Act 175 of 1927, as amended (MCL 764.9c);

Appearing in court or other judicial proceedings to assist in the prosecution of ordinance violators, and

Such other ordinance enforcement duties as may be delegated by the Township Supervisor/Superintendent or assigned by the Township Attorney.

Section 5: Saving Clause

The provisions of the within ordinance are hereby declared to be severable and the invalidation of any one or more of the same by any judicial determination or statutory or constitutional provision shall not invalidate the remainder of said provisions or ordinance.

Quick Links

[MTA Sample Municipal Civil Infractions Ordinance](#)

[MTA Sample Municipal Civil Infraction Ordinance Violation Bureau Ordinance](#)

[MTA Sample Ordinance Enforcement Officer Ordinance](#)

[MTA Sample Parking Violation Bureau Ordinance](#)

[Michigan Ordinances and Code \(MSU College of Law links\)](#)

[Ordinance Adoption and Enforcement](#)

[Non-Zoning Ordinance Adoption Procedures--Charter Townships](#)

[Non-Zoning Ordinance Adoption Procedures--General Law Townships](#)

[Liens](#)

[Trespass and Right of Entry to Private Property](#)

Section 6: Effective Date

This ordinance shall take immediate effect. All ordinances of the Township heretofore or hereafter adopted shall hereafter be supplemented by the terms of the within ordinance.

The purpose of this sample ordinance is to provide a suggested guideline for the types of items that should be included within an ordinance. Certainly, no sample ordinance should be used unless, after careful review, it is the professional judgment of your legal counsel that using the sample will accomplish the particular objectives and intentions of your Township. Although these sample ordinances are the result of much thought and effort, neither the authors nor the Michigan Townships Association assumes any responsibility for the results of using these samples word-for-word in individual cases.

Created on Tuesday, July 31, 2012

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of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

[A] **104.10.1 Flood hazard areas.** The building official shall not grant modifications to any provision required in *flood hazard areas* as established by Section 1612.3 unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the *design flood elevation* and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the *design flood elevation* increases risks to life and property.

[A] **104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, *fire resistance*, durability and safety.

[A] **104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

[A] **104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction.

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

SECTION 105 PERMITS

[A] **105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*.

105.1.1 Annual permit. In place of an individual permit for each alteration to an already approved electrical, gas, mechanical, or plumbing installation, the enforcing agency is authorized to issue an annual permit upon application to any person, firm, or corporation. The applicant shall be licensed in accordance with the requirements of 1956 PA 217, MCL 338.881 to 338.892, 1984 PA 192, MCL 338.971 to 338.988, or 2002 PA 733, MCL 338.3511 to 338.3569.

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105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under an annual permit. Access to the records shall be provided at all times and the records shall be filed with the enforcing agency.

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105.2 Work exempt from permit. Exemptions from permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits shall not be required for any of the following:

- (a) Building permits shall not be required for any of the following:
 - (i) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²).
 - (ii) A fence that is not more than 7 feet (2 134 mm) high.
 - (iii) Oil derricks.
 - (iv) A retaining wall that is not more than 4 feet (1 219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II or III-A liquids.

SCOPE AND ADMINISTRATION

- (v) A water tank supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2 to 1.
 - (vi) A sidewalk and driveway not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and are not part of an accessible route.
 - (vii) Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
 - (viii) Temporary motion picture, television, and theater stage sets and scenery.
 - (ix) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in section 101.2, that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L), and are installed entirely above ground.
 - (x) Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
 - (xi) Swings and other playground equipment accessory to detached 1- and 2-family dwellings.
 - (xii) Window awnings in group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1 372 mm) from the exterior wall and do not require additional support, as applicable in section 101.2 and group U occupancies.
 - (xiii) Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches (1 753 mm) in height.
- (b) Electrical permits shall not be required, as in accordance with the Michigan electrical code, R 408.30801 to R 408.30880, for any of the following:
- (i) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
 - (ii) Radio and television transmitting stations: The provisions of the code do not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and to the installation of towers and antennas.
 - (iii) Temporary testing systems: A permit is not required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
- (c) Mechanical permits shall not be required for any of the following:
- (i) A portable gas heating appliance that has inputs of less than 30,000 Btu's per hour.
 - (ii) Portable ventilation appliances and equipment.
 - (iii) Portable cooling unit.
 - (iv) Steam, hot water, or chilled water piping within any heating or cooling equipment or appliances regulated by this code.
 - (v) Replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe.
 - (vi) A portable evaporative cooler.
 - (vii) Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75 kW) or less.
 - (viii) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
 - (ix) An oil burner that does not require connection to a flue, such as an oil stove and a heater equipped with a wick.
 - (x) A portable gas burner that has inputs of less than 30,000 Btu's per hour.
 - (xi) When changing or relocating a gas meter or regulator, a permit is not required when installing gas piping which shall be limited to 10 feet (3 005 mm) in length and not more than 6 fittings.
 - (xii) When installing geothermal vertical closed loops under the supervision of a mechanical contractor licensed in HVAC as long as the company meets both the following:
 - (A) Has obtained a certificate of registration as a well drilling contractor pursuant to part 127 of the public health code.
 - (B) Has installed the geothermal vertical closed loops in accordance with the department of environmental quality best practices regarding geothermal heat pump closed loops. Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.
- (d) Plumbing permits shall not be required for either of the following:
- (i) The stopping of leaks in drains, water, soil, waste, or vent pipe. However, if any concealed trap, drainpipe, water, soil, waste, or vent pipe becomes defective and it becomes necessary to remove and replace the drain or pipe with new material, then the work is considered new work and a permit shall be obtained and inspection made as provided in the code.
 - (ii) The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, and the removal and reinstallation of water closets, if the repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

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David/Cheryl/Karen/Ken,

This is a follow-up to our conversation about modifying the zoning regulations and the request from the Michaels, a farm family, to split the parcel on which their house sits from the rest of their land so they can sell the remainder and keep as much of it as possible in agricultural production. I believe we all agree that such an action would have been possible under previous zoning rules and it was not envisioned that the current zoning code would prevent it.

Karen made the point that it is a bit unusual to seek to quickly make one zoning fix based on a request when in fact there are a number of zoning fixes that ought to be made to the code. That point is very reasonable. Still, a broad revision of the code probably would take quite a while, and we have not had any requests (that I am aware of) for other changes, or at least no requests that were at all time-sensitive.

In this case we have a farm family that has been here for a very long time who made a request that we all thought should be possible and that indeed would have been possible under the previous zoning code. And when they made the request, we still thought it would go through, except that it had to go to the Zoning Board of Appeals first. Then the Board of Appeals took a very narrow view of its ability to approve the request.

That being the case, it seems fair and reasonable to seek to move forward on reviewing this one portion of the zoning code where there is time urgency, while leaving the more comprehensive review until later.

Based on my informal review of the code, it appears there are two, three, or even four places where one could reword a section in an effort to resolve this problem while still aiming to keep the code essentially the same and ensuring the continuing rural nature of Sodus Township.

In my view, the best option would be to slightly amend Article XIV (“AG Agricultural District”). We could easily amend Section 14.02 by inserting a fourth rule so that Section would read as follows:

Section 14.02 – Permitted Principal Uses

1. (as currently worded except that the penultimate sentence shall be amended to read “The parcel of land shall be ten (10) acres or more in land area for any use in this paragraph **except as provided in 14.02 Rule 4 below.**”)
2. (as currently worded)
3. (as currently worded)
4. **Single family dwellings that were constructed prior to the effective date of this ordinance and owned by the current occupants prior to the effective date of this ordinance may be separated from the surrounding parcel on a one-time basis provided that (a) the land on which the dwelling is situated shall be not less than two (2) acres and (b) the remaining agricultural parcel shall be not less than ten (10) acres. Both resulting parcels shall continue to be zoned AG.**

Please note that Article XIV, Paragraph 2, begins by saying that “***The intent of this district is to support the use of land in this district for agricultural production.***” This intent actually would be frustrated if the only way a farm family can sell their land and retain their house is to split their house off onto a 10-acre parcel. That would mean that eight (8) unneeded acres probably would be taken out of agricultural production. Allowing the amendment as worded would remove only the two acres surrounding the house from agricultural production.

Separately, requiring that the dwelling have been constructed before the effective date of this ordinance and owned by the current occupants before the date of this ordinance is fair. These people could have done this before and the code change reduced their ability to use their land. Anyone who bought their land or constructed a dwelling after the effective date of the current ordinance can be required to live under the provisions of the ordinance in effect at the time they moved in.

The other places where some might suggest an amendment could (at least theoretically) be inserted in the code include Article V (“Nonconforming Lots, Uses, and Structures Boundaries”); Article VI (“R-AG Residential-Agricultural District”); Article XXVI (“Zoning Board of Appeals”). Although those could be options, I don’t believe they are as suitable.

In the first case, we probably don’t want this to be considered a “non-conforming use.” In the second case, the Michaels’ place is not in the R-AG District, plus the R-AG District does not have all of the same restrictions that the AG District has.

In the last case, we could loosen the Board of Appeals wording somewhat so it does not have to require “such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.” Although that language seems to set such a restrictive standard as to be almost impossible to meet – at least based on that Board’s current interpretation of the rule – amending that language should be done carefully. Obviously it was put there for a reason. New wording that turned out to be too loose could result in precedents being set that could make it difficult to deny requests when that seems best (and apparently that was a concern when the current code was put in place).

Best Regards,

John Nay
10/11/16

**AGREEMENT FOR PROFESSIONAL AND
TECHNICAL PLANNING ADVISORY SERVICES**

THIS AGREEMENT, entered into this ____ day of September, 2016, by and between the SODUS TOWNSHIP, BERRIEN COUNTY, State of Michigan, referred to as "Township" and McKENNA ASSOCIATES, INCORPORATED, a Michigan corporation of Kalamazoo, Michigan, referred to as "Consultant."

WITNESS:

SECTION 1 – AGREEMENT

For and in consideration of the faithful and workmanlike performance of the services described, the Township hereby hires the Consultant and shall pay the Consultant as described in Section 7. This agreement shall continue in effect from the date of execution until such time as there is a ninety (90) day notice of termination by either the Township or the Consultant.

SECTION 2 - HOURLY SERVICES

The Consultant for its part, hereby agrees to provide the following technical and planning advisory services at the written request of the Township. For services rendered pursuant to Section 2, the Township shall pay the Consultant at the hourly rate specified in Section 7.A., only upon request by the Township and a prior estimate from the Consultant:

- A. The Consultant may attend regularly-scheduled Planning Commission, Zoning Board of Appeals, and Board of Trustees meetings at the request of authorized Township officials. At the regular meetings, the professional planner shall:
 - 1. Confer with the Chairperson and/or Township Supervisor regarding the agenda prior to the meeting.
 - 2. During the meeting provide guidance and assistance regarding local and State legislation, procedures, regulations and planning, zoning and design principles.
- B. On a day-to-day basis the Consultant shall provide telephone advice, assistance and coordination with Township officials, and others doing business with the Township in all matters pertaining to administrative, advisory and legislative responsibilities, as applied to zoning, subdivision, commercial/industrial/multiple-family and other development issues, as requested by the Township.
- C. The Consultant shall make the Township officials generally aware of the availability of sources of various funds and economic development mechanisms and make available its professional library of planning, design, development, housing, zoning and census information.
- D. Provision of assistance on the Community Development Block Grant (CDBG) and Federal/State programs and assistance on other similar Federal, State and local programs which may be applicable, including preparation of grant applications.
- E. Professional planning and related work in the maintenance of the Master Plan and interpretation and revision of the plan as required.
- F. Provision of verbal and/or written reports, reviews and recommendations or other services (e.g., extensive revisions of zoning ordinance, map and text) to the Township as specifically requested by authorized Township officials.
- G. The Consultant shall review potential land development proposals as to advisability and feasibility pursuant to the Township's land regulations and plans.
- H. Coordination of Township planning activities with other local, county, state, and regional agencies and authorities with jurisdiction, including but not limited to the Michigan Department of Natural Resources, and Michigan Department of Transportation, the Michigan State Housing Development Authority, when requested by the Township.
- I. Provision of other technical services related to planning, land use and spatial concerns, as may be requested by authorized Township officials.
- J. Sitting as expert witness in court cases involving the Township, for a fee equivalent to one hundred fifty percent (150%) of the hourly rate specified in Section 7.A.
- K. Provision of in-Township on-site planning and zoning services as requested by authorized Township officials.
- L. Provision of other professional, technical and design services as may be requested by authorized Township officials.

SECTION 3 - REVIEW SERVICES

The Consultant shall provide written technical recommendations on site plans, special approvals, rezonings, variances, and lot splits (land divisions), in accordance with the Township Zoning Ordinance and subdivision reviews in accordance with the Township Subdivision Control Ordinance. All such work shall be paid by the Township in accordance with the schedule of fees included in Section 7., herein.

For each review, the Consultant shall undertake the following activities:

- A. Initially review the site using aerial photos.
- B. Discuss the case by telephone or in person with the applicant and Township officials regarding review issues.
- C. Review relevant planning issues (not including specific technical engineering issues).
- D. Prior to scheduled review by the Township (in time for inclusion with agenda packages), submission of a written review and recommendation to the Township.

SECTION 4 - COOPERATION

The Consultant shall have the cooperation of Township officials, including the Supervisor, Clerk, Treasurer, Attorney, Engineer, and other staff and consultants in the collection of data and other information for the agreed upon services.

SECTION 5 - CONSULTANT PROVISIONS

The Consultant agrees to furnish all materials and services including salaries of employees engaged by the Consultant and other overhead expenses necessary to undertake the above services for the Township and to assume all cost, except as otherwise provided in this agreement.

SECTION 6 - TOWNSHIP PROVISIONS

If requested by the Consultant and if available, the Township shall furnish the following in digital format, or paper format if no digital version is available, without charge to the Consultant:

- A. Up-to-date copies of Township code of ordinances, including zoning construction and land division ordinances, forms, guidelines and policies.
- B. Copies of previously prepared studies, plans, census and other available data.
- C. Aerial photographs with property lines as available from Berrien County; reproducible GIS or CAD maps of the Township, as available.
- D. Copies of the agenda and minutes for each Planning Commission meeting, and copies of site plans, documents, applications and related information for items on each Planning Commission agenda.

SECTION 7 - COMPENSATION

For and in consideration of the faithful and professional performance and delivery of the above services as set forth herein, the Township shall pay the Consultant monthly for services pursuant to this agreement within a period of thirty (30) days after receipt from the Consultant of an itemized voucher describing services performed, and when applicable, the time spent in rendering such services at the agreed upon hourly rate, per the schedule below:

- A. Hourly Rated Services under Section 2
For services rendered pursuant to Sections 2 above, the Township shall pay the Consultant at the hourly rate specified in the following schedule, including mileage at the rate of \$.50 per mile and one half of the travel time to Township offices, upon request by the Township:

<u>Professional Classification</u>	<u>Rate Per Hour</u>
President	\$135.00
Executive or Senior Vice President	\$130.00
Vice President	\$125.00
Director	\$120.00
Senior Principal or Manager	\$110.00
Principal	\$97.00
Senior	\$78.00
Associate	\$68.00
Zoning Building Administrator	\$60.00
Building Inspector	\$58.00
Assistant	\$55.00
Aide	\$44.00
Administrative Assistant	\$42.00

B. Compensation for Services Under Section 4 Review Services

For the following reviews, fees shall be paid by the Township to the Consultant for services rendered per Section 3. of this Agreement, in accordance with the following schedule. Payment of the following fees shall not be contingent upon Township's receipt of payment from applicants. Where fees are based on hourly rates, upon request Consultant shall provide cost estimate to the Township for review services prior to commencing work:

1. **Subdivision (plat) Review** (for conventional subdivision and cluster subdivision):
 - a. Sketch Plan Review (not required, but desirable) – \$30.00 per lot with \$300.00 minimum charge.
 - b. Preliminary Plat Review for Tentative Approval – \$700.00 plus \$20.00 per lot.
 - c. Final Plat Review - \$300.00 plus \$10.00 per lot, \$350.00 minimum charge.
 - d. Review of Covenants and Restrictions: Consultant shall be paid at hourly rates.
2. **Site Plan Review (Each Review)** - The fees specified below are for review for the initial plan or proposal. The Consultant shall be paid one half (1/2) of the fee specified for review of each revision of a site plan and/or for each final review phase, except where the review fee is based on an hourly rate. In the case of fees which are based on acreage, the fee shall be based on the portion of the parcel to be developed. If the Consultant determines that the revisions are significant enough to warrant a second full review, a full review fee shall be charged.
 - a. Site Condominium Developments - \$400.00 plus \$5.00 per site condominium lot or unit; plus the fee for review of the condominium Master Deed and Bylaws and other documents (subsection 7. below).
 - b. Multiple-Family Uses or Attached Condominium Developments - \$600.00 plus \$10.00 per unit; plus the fee for review of the condominium Master Deed and Bylaws and other documents.
 - c. Rural Residential Open Space Developments or Cluster Housing - \$650.00 plus \$10.00 per unit.
 - d. Manufactured Housing Parks - \$600.00 plus \$10.00 per manufactured home site.
 - e. Commercial Uses - \$650.00 plus \$75.00 per acre or fraction thereof.
 - f. Industrial, Research or Office Uses - \$650.00 plus \$75.00 per acre or fraction thereof.
 - g. Public, Institutional or Semi-Public Uses - \$600.00 plus \$50.00 per acre or fraction thereof.
 - h. Private Roads - \$485.00 plus \$5.00 per abutting lot.
 - i. Planned Unit Development (PUD):
 - 1) Initial Review of PUD Plans and PUD Rezoning Application – Same as the Rezoning Review fee described in item 3. below, plus the applicable Subdivision Plat, Condominium or Site Plan Review fee described in subsection 1. or 2.
 - 2) Review of Revised PUD Site Plans – Same as the applicable Subdivision Plat, Condominium or Site Plan Review fee described in subsection 1. or 2. above.
3. **Zoning Amendment Review (Map or Text)** - \$700.00 plus \$50.00 per acre or fraction thereof.
4. **Special Use** - \$600.00, plus \$25.00 per acre in addition to applicable site plan review fee (2., above).
5. **Land Division, Transfer, or Combination** - \$350.00 plus \$50.00 for each lot resulting or included in the combination, whichever is greater.
6. **Appeals, Interpretations, and Variances** – \$300.00 per variance.
7. **Condominium Developments** - Consultant shall be paid an additional fee of \$275.00 for review of master deed and other condominium documents, in addition to applicable rates for review services above.
8. **Alley or ROW Vacations** - \$400 plus \$25.00 for each abutting lot.
9. **Landscape Review** – plan not included on or with a site plan:
 - a. Plan - \$300.00 plus \$30.00 per acre or fraction thereof.
 - b. Compliance Inspection – Hourly, not to exceed 3% of approved landscape cost estimate without prior Township authorization.
10. **Expedited Reviews** - If the Township requests a review to be completed within five (5) days (120 hours) after receipt by the Consultant, the Consultant shall be paid a fee equal to one hundred fifty percent (150%) of the above fees for written reports sent via facsimile or electronic mail to the Township within 120 hours.
11. **Court Witnessing** – For preparation for and sitting as expert witness in court cases involving the Township, the Consultant shall be compensated at an hourly rate of one hundred forty percent (140%) of the normal hourly rates below.
12. **Other** – Other services will be invoiced hourly or as mutually agreed upon between the Township and Consultant.

The hourly rates, and review fees in Section 7 are valid through December 31, 2017 after which the Consultant may increase its hourly rate, and review fees per classification by a percentage equal to the Consumer Price Index as reported by the U.S. Department of Labor, Bureau of Labor Statistics.

SECTION 8 - ADDITIONAL SERVICES

For services requiring additional time or meetings beyond the scope identified in this agreement and as requested by the Township, the Consultant shall be compensated by the Township at the hourly rate set forth in Section 7.A., herein. It is expressly understood and agreed that the compensation provided herein shall not cover the following services:

- A. Preparation of applications for submission to federal, State or County agencies;

- B. Traveling expenses outside Kalamazoo County;
- C. Preparation of area plans, tax increment financing and development plans, project management, capital improvement programs, building inspections, corridor studies, recreation plans, public relations, environmental studies, market studies, municipal department administration, program development and similar plans, programs and studies.
- D. Documented cost of printing and copying, photography, purchased maps, agency materials, and other materials for Consultant's review (Township approval prior to occurring costs).

The Consultant shall provide the above services for a separately negotiated fee.

SECTION 9 - EQUAL EMPLOYMENT OPPORTUNITY

There shall be no discrimination against any employee who is employed in the work covered by this Agreement or against any applicant for such employment because of race, color, religion, sex or nation origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

SECTION 10 - OWNERSHIP OF DATA.

All reports, charts, maps, and graphics shall become the property of the Township, and shall not be furnished to any other party without written permission of the Township.

SECTION 11 - COMPLIANCE WITH ALL LAWS

In performance of this agreement, the Consultant agrees to comply with all applicable federal, State and local statutes, ordinances and regulations, when applicable, including minimum wages, Social Security, unemployment compensation insurance, and Worker's Compensation, and to obtain any and all permits applicable to the performance of this agreement.

SECTION 12 - NO CONFLICT OF INTEREST.

During the term of this Agreement, the Consultant agrees that it shall not accept employment, nor shall it perform services for or on behalf of any Township whose interests are adverse to that of the Township, or for which a conflict between the Township and Consultant would be created, without the prior written consent of the Township.

SECTION 13 - COMPLIANCE WITH CODE OF ETHICS.

The consultant agrees it shall be bound by the American Planning Association Code of Professional Ethics.

IN WITNESS WHEREOF, the Township and Consultant have executed this Agreement the day and year first above written.

WITNESS:

**SODUS TOWNSHIP,
BERRIEN COUNTY, MICHIGAN**

By: _____

By: _____

McKENNA ASSOCIATES

By: _____
Phillip C. McKenna, AICP, PCP, President