

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

REGULAR MEETING
April 23, 2019
7:30 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF MEMBERS:

APPROVAL OF AGENDA FOR: April 23, 2019 Regular Meeting

APPROVAL OF MINUTES FROM: March 26, 2019 Regular Meeting

CALL TO THE PUBLIC:

New BUSINESS:

- 1) Pre-application review for Howell Landscaping Nursery
- 1) Nuisance General Ordinance Review Cheryl's Draft

Old BUSINESS:

- 1) Marion Township Engineering Standards (Phil and John) & TXT #01-18 6.20 Private Roads (discuss- length, #ingress/egress, shared driveway, #driveways)
- 2) TXT #03-18 Home Occupation (defer to joint meeting, set date)
- 3) TXT#07-17 proposed changes Lots - definition gross versus net (Bob)
- 3) Wellhead Protection Overlay District replacing 6.27 review

Correspondence and Updates:

CALL TO THE PUBLIC:

ADJOURNMENT:

DRAFT

Approved by: _____
Larry Grunn, Chairperson

Date: _____

MARION TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 26, 2019 / 7:30PM

MEMBERS PRESENT: LARRY GRUNN – CHAIRPERSON
BOB HANVEY
BRUCE POWELSON – VICE CHAIR
CHERYL RANGE – SECRETARY
JAMES ANDERSON

OTHERS PRESENT: DAVE HAMANN – ZONING ADMINISTRATOR
JOHN ENOS – CARLISLE WORTMAN PLANNER
PHIL WESTMORELAND – SPICER’S

CALL TO ORDER:
Larry Grunn called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA:

Regular Meeting Agenda for March 26, 2019

Bob Hanvey requested to rearrange the agenda items under the “New Business” section, as follows:

- 1) Pre-application Review for Evergreen outdoors 386 Lucy Road, (Daniel Brockway)
- 2) Wellhead Protection Overlay District replacing 6.27 review
- 3) Howell City Waste Water Treatment Plant Upgrades Impact
- 4) Marion Township Engineering Standards (Phil and John)
- 5) Nuisance Ordinance Verbiage (Written by Cheryl Range)

Cheryl Range requested to add item “#5: Nuisance Ordinance Verbiage” to the agenda, under “New Business”, if there is enough time.

Bob Hanvey motioned to approve this agenda as amended. Cheryl Range seconded. **Motion carried.**

APPROVAL OF MINUTES:

Approval of the Regular Meeting Minutes for January 22, 2019

Bob Hanvey motioned to approve the minutes from January 22, 2019. Jim Anderson seconded. **Motion carried.**

CALL TO THE PUBLIC:

None

NEW BUSINESS:

***1) Pre-Application Review for Evergreen Outdoors with Daniel Brockway
(Located at 386 Lucy Road)***

Dave Hamann said that this is a Pre-Application Review for Evergreen Outdoors. This process gives the applicant the ability to come to the Planning Commission for a review and find out what the requirements will be and get some direction on how to move forward. Dave would also like to use this for future projects. Dan Brockway explained that Evergreen Outdoors used to be just a home and was able to get a site-plan approval to run the business there and for the parking lot that was put in. Generally there are no customers on site and most of the employees come and go throughout the day. Brockway would like to build a pole barn which would help minimize the rent/expenses of having two separate sites/locations. Utilizing the pole barn, should not impact overall operations. There will be one employee on site all day and the rest will continue to come and go. He has provided the site plan along with the elevations, landscape improvements and other important issues. No material will be stored on site and the barn will not need any type of plumbing done. It will only require the use of gas and electrical. Brockway knows that he will have to get a variance for the size of the barn and for the set back.

John Enos said that after his informal review, he believes this request is acceptable. John is comfortable with the size of the lots and the location of this business. John will do a more formal review as this process unfolds. Jim Anderson asked Brockway about his plans for fencing. Brockway was hoping to put a fence up in just the front but is willing to negotiate.

Bob Hanvey asked if a screening variance would be necessary. John Enos said that he would like to research the surrounding areas to determine what the exact screening requirements need to be.

Bob Hanvey asked if this would be considered a "Landscape/Contractors yard". John Enos said he would consider this more of a "Contractor's /Storage yard", since material will not be stored on site.

John Enos also said that this would be considered a, use permitted by right, so a public hearing would not be required and neither would a special use permit.

Jim Anderson asked where the well is located in comparison to the parking lots. Brockway said that the parking lot is 6-8 feet away. John Enos said he does not see any issues with that.

Bob Hanvey said if approved, the next step would be for Brockway to submit something to the Zoning Department/Dave Hamann, which would get denied due to the size of the barn and the set-back distance.

That way we have something in writing that explains why this needs to go to the ZBA for a variance.

John Enos said he believes that this meets the requirements for a preliminary site plan.

Dave Hamann said that Dan Brockway can come in with his paperwork, pay the ZBA fee and schedule a ZBA meeting and Public Hearing for the neighbors.

2) Wellhead Protection Overlay District Replacing 6.27 Review

Bob Hanvey asked if there are any issues with the way this proposed Wellhead Protection Overlay is currently. Bob explained that there are a few issues with the State, which involve things that we don't have any control over. Also, there are some Wellheads that are coded differently and we are not sure why. Bob thinks that this still needs some work but it is a good start.

Larry Grunn asked if this should be part of the Master Plan. John Enos said that it should be. Bob Hanvey said to keep reviewing it and we can make some more changes if necessary. Bruce Powelson said that on page 6, section F, the word "Trichlorethane" is not spelled correctly.

3) Howell City Waste Water Treatment Plant Upgrades Impact

Bob Hanvey said that we need to provide a letter to Howell City stating that there Treatment Plant will not impact any of our Zoning Ordinances. Bob asked if there were any objections to Bob sending a statement to "Hubell, Roth & Clark" stating that their upgrades will not affect or interfere with Marion Township. James Anderson asked how their chemicals are stored. Phil Westmoreland stated that they are all properly stored in containers with surrounding barriers. They also have to go through a strict approval process that require permits and inspections done by DEQ. Bob Hanvey motioned to send a statement to Howell City explaining that their upgrades will not have an impact on Marion Township. Bruce Powelson seconded. **MOTION CARRIED.**

4) Marion Township Engineering Standards

Phil Westmoreland stated that these Engineering Standards will be part one of two parts. This first part will describe the process and procedures. Phil is currently working on the second part which will have specific numbers, sizes and so forth. Part one will have language explaining the preliminary and final site plan process. It will also discuss how an applicant can combine the preliminary process and final site plan review. Phil explained, that by having a preliminary meeting to review site plan, gives them the ability to suggest things that will help clean things up, making the site plan review more efficient before going to the ZBA or the Planning Commission. Dave Hamann explained that he and John Enos would like to create a flow chart so the applicant knows where to go and what to expect throughout each step. Bob Hanvey asked if certain plans would be grandfathered in. Phil Westmoreland said that, these standards will be dated so it will apply to anything moving forward. Dave said that some revisions may not always require two steps. Bob Hanvey said that on page 7, we should add "Zoning Administrator" and specify that MHOG handles all the water billing and usage for Marion Township. Phil Westmoreland said that his hope is to streamline this process so it's more clear-cut for the developers and the Township staff/members. John Enos suggested that we should consider allowing the Zoning Administrator to approve certain plans, without having to come to the Planning Commission.

5) Nuisance Ordinance Verbiage

Cheryl put together some language for our Nuisance Ordinance.

OLD BUSINESS:

1) TXT# 01-18 6.20 Private Roads

Cheryl Range made a motion to postpone discussion on this item until our next meeting on April 23, 2019 and to combine it with the discussion on "Engineering Standards". Jim Anderson seconded. **Motion carried.**

2) **TXT# 03-18 Home Occupation**

John Enos suggested possibly coming up with a Class 1, 2 and 3. John Enos said we should have a workshop with the Planning Commission and the Board of Trustees to discuss Home Occupation further. John Enos suggested offering only a \$50 fee to applicants who have a homebased business, to encourage them to inform the Township about their business, so we can have it on file. Maybe offering some sort of advertising on the Township website or other pros for those that comply.

3) **TXT# 07-17 Proposed Changes Lots**

Bob Hanvey stated that Evergreen Outdoor applicant is a good one to look at when discussing gross versus net acreage. 100 feet of this particular lot lays in the middle of the road. Just something to think about.

CORRESPONDENCE AND UPDATES:

Iosco Township is currently working on their Master Plan and it took them 15 years to adopt one Zoning Ordinance.

Master Plan

A special meeting was scheduled for April 29, 2019 at 7:30pm so the Planning Commission can discuss and review the Marion Township Master Plan draft with John Enos, Carlisle Wortman.

CALL TO THE PUBLIC:

Wendy Busick lives at 4746 Hawthorne. Ms. Busick would like to thank the Marion Township Planning Commission for working so hard on all of these ordinances. These ordinances are important to our community and she appreciates all the hard work being spent on these items.

ADJOURNMENT:

Cheryl Range made a motion to adjourn the meeting at 9:43pm. Jim Anderson seconded. **Motion carried.**

Marion Township

To whom it may concern, I am submitting this site plan as I am looking to move forward on building a structure used for my nursery \landscape operation on my property at 2961 Pinckney Road. I am hoping that I can get some results through this process as I have been working with the township for over a year on getting going on this project that is needed for my business. Hopefully after the pre application meeting I can come in and get the final approval with only one meeting.

I have revised the original site plan which is not much different from the one Ed submitted. The business is, has, and will continue to do the same, "nursery\landscape supplies" for sale both wholesale and retail.

I am still having a hard time understanding why Ed supplied and there is a site plan needed for a business that is permitted by right, I have not been able to find anything in the ordinance that says I need to go through this process. The only thing I have been able to find is emails stating that when the property was split, "133 east Davis and 2961 Pinckney Rd" both parcels would be conforming therefore other accessory structures would be permitted.

Another note, I am looking to put this accessory structure in the best place to block as much noise and irritation to my good neighbors Tim Ryan and Susan Schooly as we know they are the one neighbor that has the issue with my business.

Thank you

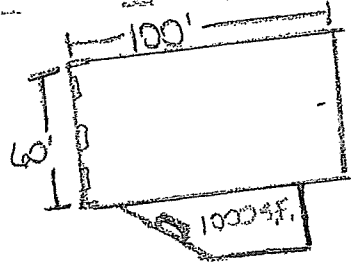
Rob Rochowiak

Howell Landscape Supplies

410.96'

2961 Pinckney Rd
Howell Landscape
Supplies

Wet lands



40' off Rear

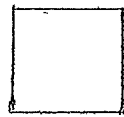
15' off Side

Height less than 35'

Storage of
Bulk materials
mulch, compost,
topsoil, etc.

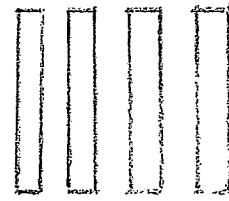
40x40 Removed
After completion of
new building

Trees/
Plants
Per site



40x40
Existing

Green Houses



Manan Drain

lowland

Drive

marsh lowland

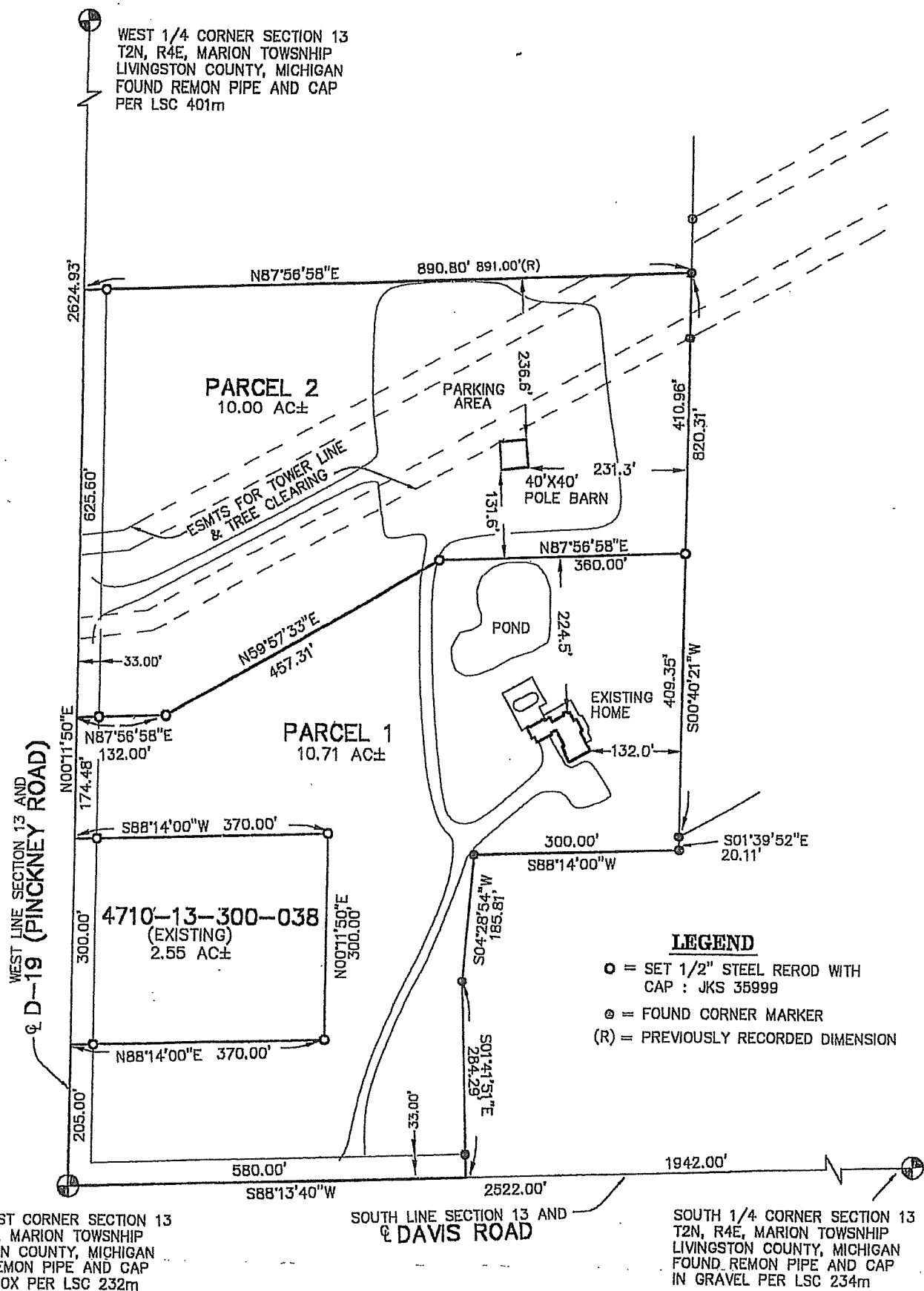
possibly dig this out
to help with the Drain
issues

Have to check with
the Drain commission
and DEQ

Clumped
Trees

425.60'

CERTIFICATE OF SURVEY

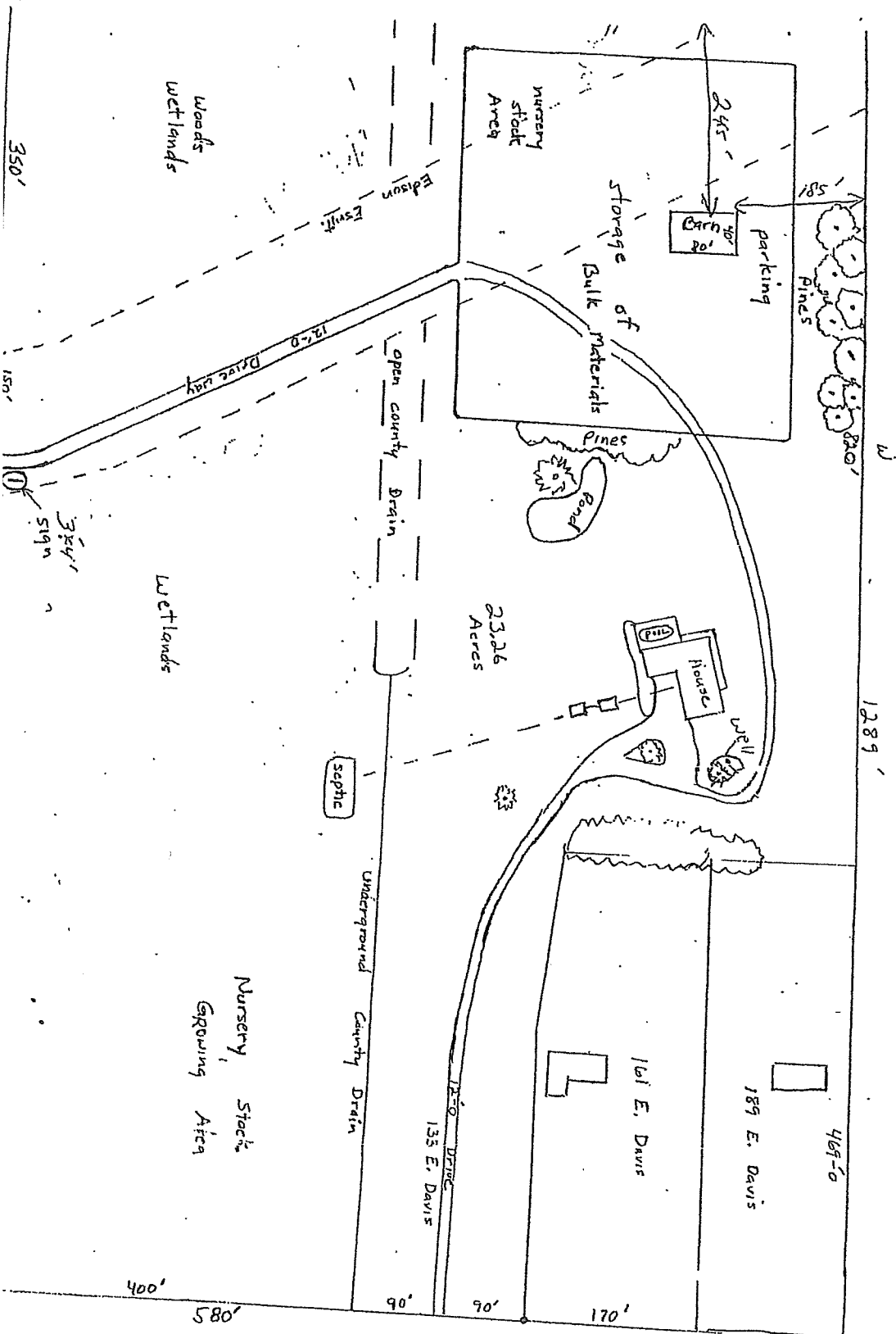


SURVEYOR'S CERTIFICATE

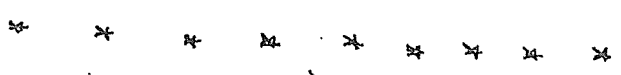
I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE LAND HEREIN PLATTED AND/OR DESCRIBED ON 01/09/2017, AND THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS 1/5,000 OR BETTER, AND THAT ALL OF THE REQUIREMENTS OF ACT NO. 132, P.A. 1970 (AS AMENDED) HAVE BEEN COMPLIED WITH.

NOTE: BEARINGS ARE BASED ON A PREVIOUS SURVEY

Eddies Original



Davis Ref (h.l.)



**HOWELL TOWNSHIP of
Marion PUBLIC NUISANCE
ORDINANCE
Ordinance No. 123, Effective April 17, 2001**

An Ordinance to promote the public health, safety and general welfare; *or* to provide penalties for maintaining Public Nuisances; *or* to provide for the abatement of Public Nuisances by the Township and the collection of the costs thereof *within the Townships' discretion*.

HOWELL The TOWNSHIP of Marion ORDAINS:

SECTION 1. PUBLIC NUISANCES DEFINED AND PROHIBITED.

A Public Nuisance is an action or condition that is offensively annoying, unpleasant, obnoxious, hurtful, harmful, injurious, vexing, difficult or distressing and causes harm or annoyance to a person or persons in a particular locality in violation of their rights in the preservation of the public health, safety and other aspects of the public welfare as members of the community. Any such action or condition that annoys, injures or endangers the safety, health, convenience, comfort, repose or other aspects of the public welfare, offends public decency or aesthetic sensibilities, interferes with, obstructs or renders dangerous any road, highway, navigable lake, river or stream, or in any way renders the public insecure in life on property is hereby declared to be a Public Nuisance. Public Nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Ordinance *and Article III Section 2 (Pg. 3-15)*. No person shall commit, create or maintain any Public Nuisance.

SECTION 2. NUISANCES PER SE.

The following acts, accumulations, conditions and activities are hereby declared to be Public Nuisances, *per se*:

- Permitting to remain on premises owned or occupied by a person or by a public agency, throwing, placing or leaving, or permitting the throwing, placing or leaving on the premises of another, any observable amounts of the following substances: organic refuse, food wastes, ashes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shells, food containers or wrappings, cans, bottles, jars, crockery, garbage, discarded furniture, cartons, boxes, crates, rags, discarded clothing, bedding, floor coverings, wallpaper, sweepings, wastepaper, newspapers or magazines, discarded appliances, rubbish, excrement, rotted materials; construction debris, including, but not limited to lumber, bricks, blocks, plumbing or heating materials, siding; yard clippings, including, but not limited to grass clippings, clippings from hedges or shrubs, or detached tree branches; industrial waste, unclean or nauseous fluids or gases in any of the following locations:
 - Any public *or private* road, street, highway, lane, alley, public place, square, sidewalk or any lands within the boundaries of Howell *Marion* Township, owned by the Township, County of Livingston, State of Michigan, other municipal corporation or government entity.

- Any river, lake, stream or other body of surface water, wetlands or flood plains.
- Any private place or premises where in the reasonable judgment of the Township Manager *Supervisor* or his or her *appointed* agent, or Board of Trustee the specified substances constitute an obnoxious or dangerous condition; or are detrimental to the public health, safety or other aspects of the public welfare; or offend aesthetic sensibilities; or may cause sickness; or attract flies, insects, rodents or vermin.
- The emission of noxious fumes or gas, smoke, ashes or soot in such quantities as to render occupancy of property dangerous or uncomfortable to a person of normal sensitivities.
- The keeping of explosives, inflammable liquids or other dangerous substances stored in any manner or in any amount contrary to the provisions of any statute or applicable administrative regulation of the State of Michigan.
- Any dangerous, unguarded excavations or dangerous, unguarded machinery in any publicly accessible place, or so situated, left or operated on private property so as to attract members of the public.
- The owning, driving or moving upon the public roads *and* streets ~~and alleys~~ of a truck or other motor vehicle which is constructed or loaded so as to permit any part of its load or contents to be air blown and deposited upon any road, street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires, or other parts onto the road, street, ~~alley,~~ sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind; provided, however, that under circumstances determined by the Township Manager ~~Supervisor~~ or his or her *appointed* agent *or Board of Trustee* to be in the public interest, he or she may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition as specified by the Township Manager ~~Supervisor~~ or his or her *appointed* agent *or Board of Trustee* and execution of an agreement by such person to reimburse the Township for any extraordinary expenses incurred by the Township in connection with such exemption.
- The keeping of bees, when such keeping results in the disturbance of the safety, comfort and repose of one or more persons, or shall render one or more persons insecure in the use of his or her property.
- The keeping of horses or livestock, ~~unless~~ *as* permitted by Township Ordinance, or the failure to keep horses or livestock within sufficient fences, barricades or restraints to keep such animals located on property designed for their containment and from entering and roaming on a public way or onto adjacent properties.
- The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned or unused discarded refrigerator, or any airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch, other locking device, or the doors, from such refrigerator or other such airtight container.

- I. The abandonment, leaving, keeping or maintaining of an unlicensed, junk or abandoned motor vehicle, as provided in Section 6 of this Ordinance *and in accordance with Township defined Article III Section 3.02.*

SECTION 3. ABATEMENT: NOTICE, AUTHORITY OF OFFICERS.

Whenever any Public Nuisance described in Sections 1 or 2 of this Ordinance shall exist upon Township property or upon the property of another municipal corporation or other government entity *or private property* within the boundaries of the Township, said Public Nuisance may be abated by the Township Manager ~~Supervisor~~ or his or her *appointed* agent *or Board of Trustee* without notice and the cost of abatement charged as provided in Section 5 of this Ordinance *with Board of Trustee discretion*. Except as provided in Section 6 of this Ordinance for unlicensed, junk or abandoned motor vehicles, whenever any such Public Nuisance shall exist on private premises within the Township, the Township Manager ~~Supervisor~~ and his or her *appointed* agent shall give notice in writing by certified mail, return receipt requested, and/or first class mail addressed to the owner or occupant of the property where the Public Nuisance exists or to the person(s) otherwise responsible for the property upon which said Public Nuisance is located. Said notice shall specify the location and nature of the Public Nuisance and shall indicate that such owner or occupant or person otherwise responsible is required to repair, tear down, abate or otherwise remove the Public Nuisance within ten (10) days of the receipt of the notice. Following the issuance of said notice, the Township Manager ~~Supervisor~~ or his or her *appointed* agent may proceed to initiate civil or criminal proceedings permitted by law to abate the nuisance with the approval of the Township Board and under the supervision of the Township Attorney.

If the Township intends to abate a Public Nuisance by entering the property and causing the work to be done to repair, tear down, abate or otherwise remove the Public Nuisance and charge the cost thereof to the property owner, the Township shall notify the property owner and occupant of this intent and advise the owner or occupant that a hearing may be requested within the ten (10) day period pursuant to Section 4 of this Ordinance. If no hearing is requested in the time allotted or following a hearing held pursuant to Section 4 of this Ordinance, said nuisance may then be repaired, torn down, abated or otherwise removed by the Township Manager ~~Supervisor~~ and his or her *appointed* agent and the cost thereof charged, as provided in Section 5 of this Ordinance. If the actual owner or occupant of the premises is unknown or cannot be located, notice may be given by posting a copy of said notice upon a conspicuous part of the property where the Public Nuisance is located and by mailing a copy of said notice by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the Township tax records, at least ten (10) days before further action by the Township Manager ~~Supervisor~~ or his or her *appointed* agent.

SECTION 4. HEARING.

If, after notice provided under Section 3 of this Ordinance, the recipient of said notice requests a hearing as therein provided, a hearing shall be held before the Township Board or a hearing officer appointed by the Township Board to determine the applicability of this Ordinance to the property in question. The Township Board or its appointed hearing officer shall make a decision with written findings of fact based upon an investigation and evidence presented at the hearing as to whether the activity or condition in question violates the provisions of this Ordinance. If the Township Board or its appointed hearing officer determines that the activity or condition violates the provisions of this Ordinance, the Township Board shall order the person requesting the hearing or owner or occupant of the premises in question to repair, tear down,

abate or otherwise remove the Public Nuisance in question within a reasonable time, but not less than five (5) days. If the Public Nuisance is not repaired, torn down, abated or otherwise removed within the period allowed in the order, the Township ~~Manager~~ *Supervisor* or his or her *appointed* agent may repair, tear down, abate or otherwise remove said Public Nuisance and charge the cost thereof as provided in Section 5 of this Ordinance.

SECTION 5. ABATEMENT; COSTS.

All expenses incurred by the Township or its employees or agents in repairing, tearing down, abating or otherwise removing a Public Nuisance under this Ordinance shall be charged to the person responsible for the Public Nuisance, including either the occupant of the land in question, the person who appears as owner of party in interest upon the last local tax assessment records of the Township, or both. If said person or persons fail to pay said charge within thirty (30) days after a statement therefor is mailed to them, the amount of expenses incurred by the Township in repairing, tearing down, abating or otherwise removing the Public Nuisance may be paid from the Township General Fund and the amount thereof assessed against the lands on which the Public Nuisance was located on the next general assessment/tax roll of the Township and shall be collected in the same manner as other taxes are collected. The Township shall have a lien upon such lands for such expense. Said lien shall be enforced in the manner prescribed by the general laws of the State providing for the enforcement of tax liens.

SECTION 6. UNLICENSED, JUNK OR ABANDONED MOTOR VEHICLES PROHIBITED.

- A ~~Motor Vehicle~~ is hereby defined as any wheeled vehicle that is self-propelled or intended to be self-propelled. An ~~Unlicensed, Junk or Abandoned Motor Vehicle~~, for purposes of this Ordinance shall include:
 - Any motor vehicle or portion thereof that has remained on the premises of another for a period of forty-eight (48) continuous hours or more without the consent of the owner or occupant of the property or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant of the property has been revoked; or
 - Any motor vehicle or portion thereof that has remained on the premises of an owner or occupant for a period of thirty (30) consecutive days or more, and does not have an engine in running condition, four (4) inflated tires, and/or a battery; or
 - Any motor vehicle or portion thereof that has remained on the property of an owner or occupant for a period of 90 days or more and does not have attached current license plates; or
 - Any motor vehicle or portion thereof that is in fact abandoned by its owner; or

- Any motor vehicle or portion thereof that for any reason is not operable and not repairable.
- No person shall abandon a motor vehicle or portion thereof on the premises of another.
- No person shall store, maintain, keep, leave or authorize the storage, maintenance, keeping or leaving of any unlicensed, abandoned or junk motor vehicle or part thereof on any private property under his/her ownership, tenancy or control, except as provided in paragraph "D" below.
- The following motor vehicles shall not be deemed unlicensed, junk or abandoned vehicles for purposes of this Ordinance: vehicles stored within a completely enclosed building, vehicles kept as stock in trade by a regularly licensed dealer in motor vehicles, vehicles stored by a junk or abandoned vehicle dealer or agent properly and currently licensed by the State of Michigan. The Township Manager or his or her agent may, upon written application, exempt from this Ordinance for any reasonable period of time any historic or classic vehicle which by reason of special circumstances is deemed not be a junk or abandoned motor vehicle.
- The Township Manager ~~Supervisor~~ or his or her *appointed* agent may remove any unlicensed, junk or abandoned motor vehicle or part thereof from the property of the Township or other municipal corporation or other government entity within the boundaries of the Township without notice and may dispose of said vehicle in a prescribed or otherwise acceptable manner. The Township Manager ~~Supervisor~~ or his or her *appointed* agent may remove or cause to be removed any unlicensed, junk or abandoned motor vehicle or part thereof from any open area on private property, after having notified the vehicle owner and/or lienholder, if known, and the property owner or occupant of such property in writing of his or her intention to do so at least forty-eight (48) hours prior to such removal. If the vehicle owner and/or lienholder cannot be determined, a copy of said notice shall be placed upon the vehicle at least forty-eight (48) hours prior to removal. The Township Manager ~~Supervisor~~ or his or her *appointed* agent may dispose of said vehicle in a prescribed or otherwise acceptable manner. The cost of hauling away and disposing of an unlicensed, junk or abandoned motor vehicle may be charged as provided in Section 5 of this Ordinance. The removal of an unlicensed, junk or abandoned motor vehicle by the Township Manager ~~Supervisor~~ or his or her *appointed* agent shall not excuse or relieve any person of the obligations imposed by subsections 6(B) or 6(C) of this Ordinance nor from the criminal penalties for violation thereof.

SECTION 7. UNLAWFUL NOISE PROHIBITED.

- It shall be unlawful, and it shall be deemed a Public Nuisance, for any person to unreasonably make, continue or cause to be made any noise that excessively annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, or that injures or endangers the health, peace, or safety of the public within the Township. The following acts, among others, are declared to be *prima facie* evidence of unlawful noises in violation of this Section 7, and are deemed to be Public Nuisances *per se*, but this enumeration shall not be deemed to be exclusive, namely:
 - Radios, Record or CD Players and Musical Instruments: Operating, playing or permitting the operating of any radio, CD player, television set, car stereo,

musical instrument, drum, loudspeaker, tape recorder, or other sound-producing device, amplified or unamplified, in such a manner or with such volume at any time or place so as to excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, motel, hospital or residence, or the operation of any such radio, instrument, CD player, television set, machine or device in such a manner as to be plainly audible on real property or in a dwelling unit other than that from which the noise originates or emanates, or the operation of a car stereo so as to be plainly audible at a distance of fifty (50) feet from the vehicle in which it is located.

- Shouting and Whistling: Yelling, shouting, hooting, whistling, singing, or making any other loud noises on public *or private* roads, streets, sidewalks, pathways or other *rural* roads, streets or paths located within the Township, between the hours of 11:00 p.m. and 7:00 a.m. the following day, or the making of any such noise at any time or place so as to excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, motel, hospital or residence.
- Animals and Birds: Owning, possessing or harboring any animal or bird that frequently or for continued duration howls, barks, meows, squawks or makes other sounds at any time or place so as to excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, hotel, motel, hospital or residence.
- Construction: Operating or permitting the operation of any tools or equipment used in construction, excavation, demolition, alteration or repair of any building, road, street or highway, between the hours of 9:00 p.m. and 7:00 a.m. the following day or all day on Sundays or federal holidays, such that the sound thereof is plainly audible in any hotel, motel, hospital, office or residence located on any property other than the property from which the noise originates, with the following exceptions:
 - Noise from the operation of any tools or equipment used in construction, excavation, demolition, alteration, or repair of any building or other structure, site grading, road, street or highway that is normal to such operations shall be permitted daily between the hours of 7:00 a.m. and 9:00 p.m., except that no such operations shall be conducted on Sundays, Thanksgiving Day, Christmas Day and New Years Day. Any operation that does not exceed sixty (60) decibels at the property line of the property in which it is conducted may operate at any time on any day between the hours of 7:00 a.m. and 9:00 p.m.
 - Noise from the operation of any tools or equipment used in home improvement or maintenance projects personally conducted by the owner or occupant of an existing residence or other type of building or structure shall be permitted on any day between the hours of 7:00 a.m. and 9:00 p.m.
- Engines: Operating or permitting the operation of any engine, whether stationary or mobile, so as to excessively annoy or disturb the quiet, comfort or repose of a

person of normal sensitivities in any office, hotel, motel, hospital or residence. This subparagraph shall not prohibit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 7:00 a.m. and 9:00 p.m., the same day, nor shall it prohibit the operation of a state licensed motor vehicle in a manner expressly permitted by State law.

- Smoke: A person, industry, corporation, firm, or business shall not discharge into the atmosphere from any single source of emission or collective sources of

emission located on any lot or parcel, any air contaminant for a period or periods of time aggregating more than three (3) minutes in any one (1) hour which results in the following:

- As dark or darker in shade than that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines.
- Of such density as to obscure an observer's view to the degree equal to or greater than the shade of smoke described in (a) above.
- At no time for any period of time shall smoke emissions be darker than Ringelmann No. 3.
- Dust, Dirt or Fly Ash: There shall be no discharge into the atmosphere of any levels of materials or substances of any kind or combination of kinds exceeding twenty (20) grams per cubic foot of the carrying medium. There shall be no discharge of any materials or substances into the atmosphere which creates conditions harmful or potentially harmful to any human, animal or plant material located on the same property as well as adjacent properties. All equipment involved in any process shall be maintained in an approved operating condition so as to keep any produced dust, dirt or fly ash to the minimum possible.
- Noxious Gas: No noxious gas shall be permitted to escape into the atmosphere in concentrations detrimental to human, plant or animal life.
- Open fires: A person, industry, corporation, firm or business may burn combustible refuse in an open outdoor fire, if permitted, *and if* subject to written approval with specified conditions by the Township and Fire Department as not being detrimental to the health, safety and welfare of adjoining properties and the community generally.
- Vibration: Vibrations from any operation on any lot or parcel shall be controlled to the extent that they cannot be felt beyond any property line bounding or beyond the lot or parcel from which such vibrations emanate.
- Glare and Heat: All operations which produce glare and heat, such as welding or acetylene torch cutting shall be performed in such a manner that the glare cannot be seen from any road, street or highway or adjacent property and any heat produced on a lot or parcel through any operation shall be insulated that the temperature at any of its property lines shall not increase above that which

is registered as the temperature for any particular time of day by the local Weather Bureau.

- Light: Lights for buildings, *residences* and other structures and parking areas, whether located inside, outside or in or under covered buildings, *residences* or other structures and parking areas shall be so located, oriented and shielded so as not to shine directly onto any adjacent properties, roads, streets or highways. *Note: Said Lighting may be permitted across property lines ONLY if affected owners/parties involved agree with shared Lighting. BUT, Never to be carried over "Grandfather Clause" meaning or allowance once the original owners/parties cease to share the Agreement herewith.*
- Radio Transmission: Any electronic equipment shall be so shielded that its operation will not interfere with any other installation and use of radio, television, cellphone or other electronic equipment.
- Flammable Liquids, Liquefied Petroleum Gases and Explosives: shall not be stored on any lot or parcel without the approval of the State of Michigan Fire Marshall and the local Fire Department and shall comply with all the State of Michigan rules and regulations as established by the "Fire Prevention Act," Public Act 207 of 1941, as amended.
- Odor: There shall be no emission or escape of any materials or any obnoxious odor in such quantities as to be readily detectable so as to pose a hazard or to create any physical discomfort to the users and occupants of adjacent properties or those persons walking or traveling by in vehicles on adjacent roads, streets or highways, subject to State Law, i.e., Michigan Right to Farm Act.
- Radioactive Materials and Wastes: The delivery, storage, use and removal of radioactive materials and wastes shall have the approval of the responsible Federal, State and local agencies and in no case shall radioactive materials and wastes be permitted to exceed quantities established as safe by the United States Bureau of Standards when measured at the property lines of the property upon which such materials are located.
- Open Storage: All storage of building materials, sand, gravel, stone, lumber, equipment and supplies shall be continually or permanently located within an area not closer than one hundred fifty (150) feet from any road, street or highway right-of- way line, and not less than twenty (20) feet from any side or rear lot line of the lot or parcel upon which they are located. The on-site location of openly stored lumber, coal or other combustible materials shall be accessible by means of a Fire Department approved driveway which provides direct and free access at all times by fire trucks. All such open storage shall be screened from all roads, streets and highways and all adjacent properties by a solid eight (8) foot high wall, fence, berm, evergreen planting or any combination of them. The storage of any of the aforementioned shall not be piled so as to exceed the eight (8) foot high required solid barrier.

SECTION 8. PUBLIC NUISANCES, EMERGENCY ABATEMENT, COSTS.

The Township Manager *Supervisor* or his or her *appointed* agent may act to abate a Public Nuisance without giving notice as specified in Section 3, if the public health, safety or welfare requires immediate action. The cost of abating such nuisance shall be charged as specified in Section 5.

SECTION 9. PENALTIES.

May be applied by the Township Supervisor appointed agent and/or Board of Trustees within their legal discretion.

~~Repealed and replaced by ordinance #132, Civil Infractions Ordinance.~~

~~(Ord. No. 133 Eff. March 15, 2002)~~

SECTION 10. APPEARANCE TICKETS.

In all arrests and prosecutions for violation of this Ordinance, Appearance Tickets and the appropriate procedures set forth in Act 147, Michigan Public Acts of 1968, as amended, may be used whenever appropriate.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after its publication. (Ord. No. 123 eff. April 17, 2001)

**MARION TOWNSHIP
ENGINEERING STANDARDS
MARCH 2019**

TABLE OF CONTENTS

GENERAL PLAN SUBMITTAL REQUIREMENTS AND PROCEDURES	1
I. PURPOSE.....	1
II. SITE PLAN PROCEDURE SUMMARY.....	2
III. CONSTRUCTION PLAN SUBMITTAL PROCEDURES	8
IV. INSURANCE.....	10
V. CONSTRUCTION OBSERVATION PROCEDURES	11

GENERAL PLAN SUBMITTAL REQUIREMENTS AND PROCEDURES

I. PURPOSE

- A. It is the purpose of this Section to specify standards and data requirements, which shall be followed in the preparation of the site plans. It is also the purpose of this Section to ensure that:
 - 1. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare, and character of the Township;
 - 2. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, ground water, and woodlands; and
 - 3. Landscaping, including grass, trees, shrubs, and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.

II. SITE PLAN PROCEDURE SUMMARY

A final site plan shall be reviewed by the Planning Commission, who shall then provide a recommendation of approval, approval with conditions, or denial, to the Township Board of Trustees. The Township Board of Trustees must approve or approve with conditions the final site plan prior to the establishment of any new land use, change of use, addition to an existing use, or the erection of any structure in any zoning district. Individual single-family structures erected within a single lot, parcel or building envelope shall not require site plan review.

1. The Township shall not issue a land balancing permit until the final site plan has been approved by the Township Board of Trustees and is in effect.
2. No grading, removal of trees or other vegetation, landfilling, land balancing, or construction of improvements shall commence for any development that requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in these specifications.

A. Preliminary Site Plan

1. Application. Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee required herein, and twelve (12) copies of the preliminary site plan drawing(s), and six (6) 11 x 17 inch color aerial photographs of the site area and surrounding areas showing overlaying property lines and the proposed site layout at a scale ten times that used for the site plan, and one (1) 24 x 36 inch presentation aerial photograph, as determined by The Administrator. The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan to the Planning Commission. The purpose of such preliminary review is to confirm general compliance with Township standards as well as to suggest changes, if necessary, for final site plan approval.
2. Information Required. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50'. A preliminary site plan submitted for review shall contain all of the following information in a clear and legible format:

General Information

- a. Name of the proposed development
- b. Name, address, phone, fax number and/or email address of applicant(s), property owner(s), engineer(s), architect(s), and landscape architect(s).
- c. A written narrative of the proposed use(s) of the property. For other than residential uses, including factors that potentially impact the proposed development may have on the surrounding area.
- d. One (1) presentation quality aerial photograph with adjacent property information and features including, though not limited to, the following: land use(s), property owner(s), sidwell number(s), location of adjacent buildings, driveways, streets, existing and proposed lot lines, building lines, structures, and parking areas on the parcel and within one hundred (100) feet of the site.
- e. Date of plan preparation, including revision dates.
- f. Complete legal description of the site.
- g. Professional seal of a registered architect, engineer, surveyor, landscape architect, or a planner.
- h. Vicinity map drawn at a scale of 1" = 2,000'.
- i. Dimensions and gross acreage of the site.

- j. Zoning classification of petitioner's parcel and all abutting parcels and demonstration of compliance with lot area, width, coverage, and setback requirements.
- k. Scale and north arrow on each plan sheet.
- l. Existing natural features and man-made features to be retained or removed.
- m. Adjacent property information and features including, though not limited to, the following: land use(s), property owner(s), sidwell number(s), zoning classification, location of adjacent buildings, driveways, streets.
- n. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within one hundred (100) feet of the site.
- o. Proposed construction phasing.
- p. Identification of variances that may be required.

Physical Features

- a. Location, size, and dimension of proposed buildings/structures, including floor area, finished floor elevation, number of floors, height, number and type of dwelling units (where applicable).
- b. Location of existing and proposed private and public roads and access drives, including general alignment, right-of-way or easement, surface type, and width.
- c. Location, size, and dimension of the following existing and proposed site features: water main, wells, detention and forebay basins, private utilities, utility poles, and public and private easements.
- d. Location, size, and dimension of existing and proposed storm sewer, culverts, ditches, and public and private storm sewer easements.
- e. Location, size, and dimension of existing and proposed sanitary sewer, septic fields, reserve septic fields, sewage disposal facilities, and public and private sanitary sewer easements.
- f. Location of all existing and proposed parking, including dimensions of spaces, maneuvering lanes, and surface type, where applicable.

Natural Features

- a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Livingston County, Michigan.
- b. Existing topography with a maximum contour interval of two (2) feet for the site and beyond the site for a distance of one hundred (100) feet in all directions. Final grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling, and grading.
- c. Location of existing wetlands, drainage courses, floodplains, and associated bodies of water, within one hundred (100) feet of the site, and their elevations.
- d. Location of existing woodlands delineated with symbolic lines tracing the spread of the outermost branches and shall be described as to the general sizes and kinds of trees contained.
- e. Location of natural resource features, including, but not limited to, woodlands and areas with slopes greater than eighteen percent (18%) incline.

Additional Requirements for Residential Developments

- a. Density calculation by type of unit.
- b. designation of units by type and number of units in each building.

- c. Amount, type, and location of common open space, including general and limited common elements within a site condominium, and any recreational amenities (i.e., playground equipment).
 - 3. **Planning Commission Action.** The Planning Commission shall recommend to the Township Board of Trustees approval, approval with conditions, or denial of the preliminary site plan. If the preliminary site plan requires extensive revisions to meet Township requirements, the Planning Commission may recommend denial of the preliminary site plan. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken.
 - a. The Planning Commission recommendation of the preliminary site plan shall be forwarded to the Township Board of Trustees for its review.
 - b. If the preliminary site plan is recommended for denial or approval with conditions, the applicant may address all the conditions and submit the revised preliminary site plan to the Zoning Administrator for further action by the Planning Commission.
 - Board of Trustees Action.** The Township Board of Trustees shall review the preliminary site plan and approve, approve with conditions, or deny the preliminary site plan.
 - a. If the Board of Trustees approves the preliminary site plan, the applicant may submit a final site plan to the Zoning Administrator in accordance with the provisions herein.
 - b. If the preliminary site plan is approved with conditions, the applicant shall address all the conditions and submit a revised site plan to the Zoning Administrator. Upon a determination by the Township's Engineer and Planner that all the conditions have been satisfied, the plan shall be forwarded to the Planning Commission for final site plan review.
 - c. If the preliminary site plan is denied by the Township Board, the applicant may submit an alternative preliminary site plan to the Zoning Administrator for review by the Planning Commission in accordance with the provisions herein.
 - 4. **Effect of Approval.** Approval or approval with conditions of a preliminary site plan by the Township Board of Trustees shall indicate general acceptance of the use and the proposed layout of buildings, streets and drives, parking areas, other facilities, and overall character of the proposed development. The Zoning Administrator or duly-appointed agent shall, within ten (10) days of the date of approval of the preliminary site plan by the Board of Trustees, transmit a written certification of such approval to the applicant.
 - 5. **Expiration of Approval.** Approval of a preliminary site plan by the Board of Trustees shall be valid for a period of one (1) year from the date of approval and shall expire and be of no effect unless a completed application for a final site plan approval with all necessary supporting information is filed with the Zoning Administrator within that time period.
- B. Final Site Plan
 - 1. **Application.** The applicant shall submit to the Zoning Administrator twelve (12) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee required herein, and a completed application form. The Zoning Administrator, upon receipt of the application, shall transmit only complete submittals (as determined by The Administrator) of the final site plan drawing(s) to the Planning Commission prior to its next regular meeting.

2. **Information Required.** Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50'. A final site plan submitted for review and approval shall contain all of the information required for the preliminary site plan in addition to the following data presented in a clear and legible format.

Physical Features

- a. Location of existing and proposed centerline, edge of roadway, approach radii at intersections, and pavement cross-sections for public and/or private roads on site or abutting the site. Acceleration, deceleration, passing lanes, approaches, and curb and gutter shall also be shown.
- b. Existing and proposed location, width, and approach radii of access drives, driveways, sidewalks, pathways, and curb and gutter. Pavement cross sections shall be provided for each.
- c. Existing and proposed off-street parking with calculation of the number of parking spaces required and provided.
- d. Location of existing storage tanks. This may include, but not be limited to, information on the following:
 1. Chemical and fuel storage tanks and containers;
 2. Water supply facilities;
 3. Sanitary sewage disposal facilities;
 4. Storm water control facilities and structures; and
 5. Location of all easements.
- e. Location, size/dimension of existing and proposed fire hydrants, water service and fire suppression leads, and public and private water main easements. (All proposed water mains must meet the standards of the Marion, Howell, Ocala, Genoa (MHOG) Water Authority.)
- f. Grading and overflow route for proposed and existing detention and forebay basins and public and private drainage easements. Calculations shall be included and indicate that the detention and forebay areas meet the Livingston County Drain Commission standards.
- g. A note shall indicate the ultimate outlet for storm water runoff (County Drain, creek, or river).
- h. Location of all building structures with setback and yard dimensions.
- i. Dimensioned floor plans and typical elevation views for all buildings, where applicable.
- j. Proposed exterior lighting locations, typical detail, and illumination pattern.
- k. Location and description of all existing and proposed landscaping, berms, fencing, retaining walls, and quantity and size of all proposed landscaping.
- l. Trash receptacle pad location, area, method of screening, pavement type and cross-section.
- m. Location, area, depth, and method of screening of transformer pads, compressors, air conditioners, generators, refrigeration units, and similar equipment, where applicable.
- n. Entrance detail(s) including traffic control and monument sign locations and size.
- o. Designation of fire lanes.
- p. Proposed grading and how it shall tie into existing grading, and the limits of clearing and grading. Elevations shall be provided at, though not limited to: top of curb and/or edge of pavement, edge of walk/pathway, top and bottom of retaining wall,

property corners, finished floor, storm structures, and detention and forebay high water.

- q. Location of existing and proposed ground, wall, or directional signs, and details of all proposed signs.
- r. Any other pertinent physical features.

Additional Requirements for Commercial and Industrial Developments

- a. Loading/unloading areas.
- b. Total and useable floor area.
- c. Number of employees in peak usage.

3. **Standards for Review.** In reviewing the final site plan, the Planning Commission and Township Board shall determine whether the plan meets the following specification and standards:

- a. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations.
- b. All required information is provided.
- c. There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means.
- d. Site plans shall fully conform to the Livingston County Drain Commission standards.
- e. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.
- f. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards, where applicable.
- g. The proposed use is in compliance with all Township Ordinances and any other applicable laws.

4. **Planning Commission Action.** The Planning Commission shall recommend to the Township Board of Trustees approval, approval with conditions, or denial of the final site plan within ninety (90) days after the final site plan is first reviewed by the Planning commission. This time limit may be extended upon agreement between the applicant and the Planning Commission. The Planning Commission may suggest modifications in the proposed final site plan as are needed to gain Planning commission recommendation for approval. All engineering drawings and plans shall be reviewed by the Township's engineer, planner, attorney, Howell Area Fire Authority, and appropriate Livingston County and state agencies before a final site plan may be recommended for approval, approval with conditions, or denial by the Planning Commission.

5. **Effect of Approval.** A recommendation of approval advances the final site plan to the Township Board of Trustees for its review and action. Upon approval of a final site plan by the Township Board of Trustees, the applicant may apply for a land balancing/land use permit in accordance with the terms of the approved final site plan and any other Township requirements.

6. **Expiration of Approval.** Approval of a final site plan shall expire and be of no effect one (1) year following the date of approval unless construction has begun on the property in conformance with the approved final site plan.

- a. **Combining Preliminary and Final Site Plans** An applicant may, at the discretion of The Administrator, request to combine a preliminary and final site plan in one (1) 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 Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexity and/or scale of the site for the proposed development to warrant.
 - b. **Conformity to Approved Site Plans** Property, which is the subject of an approved final site plan, must be developed in strict compliance with the approved final site plan and any amendments thereto which have been approved by the Township Board of Trustees. If construction does not conform to the approved final site plan, the approval shall be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than actions taken to correct the violation. For residential developments, no land use permit for dwellings shall be issued until the first course of blacktop, by development phase if applicable, and landscaping has been installed. The required landscaping shall include, but not be limited to, greenbelts, entrance(s), detention/retention basins, and buffers as shown on the approved final site plan.
 - c. **Amendment of Approved Site Plan** The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing(s) be submitted showing such minor changes, for purposes of record. An approved final site plan may be amended upon re-application including any fees required and in accordance with the procedure herein for a final site plan.
- C. Construction Plan Review** Following approval of the final site plan by the Township Board of Trustees, the applicant shall submit to the Zoning Administrator two (2) copies of construction plans as well as any other data and exhibits hereinafter required. The construction plans shall be consistent with the approved final site plan but shall provide greater detail in accordance with these standards. Approval of the construction plans by appropriate authorities is required prior to beginning construction.
- D. Construction Observation** Marion Township or its designated representative will provide observation on all proposed public utilities and improvements, as well as limited construction observation of private improvements. The requirements for construction observation and final project closure shall be in accordance with these standards, as amended.

III. CONSTRUCTION PLAN SUBMITTAL PROCEDURES

1. Following approval of the preliminary and final site plans by the Township, the applicant shall submit to the Zoning Administrator two (2) copies of construction plans as well as any other data and exhibits hereinafter required, the review fee, and a completed application form. After the initial submittal, subsequent revisions can be sent directly to the Township Engineer.
2. The construction plans shall address the same concerns as the final site plan but shall include much greater detail in accordance with the adopted Marion Township Engineering Standards. Approval of the construction plans is required prior to beginning construction.
3. As part of the review process, the Township Engineer may contact the Township, the DPW, Fire Department, or other regulatory agencies for comments and feedback. If other agencies (MDOT, MDEQ, LCRC, LCDC, etc.) have not completed their reviews, the Township Engineer may request that their comments be supplied to the Township Engineer prior to final approvals. In general, the following agencies shall have review authority over the type of improvement:
 - d. Marion Township
 - I. Sanitary sewer and appurtenances
 - II. Public and Private water distribution system and appurtenances
 - III. Private storm sewer and appurtenances
 - IV. Stormwater management (detention, retention, etc.)
 - V. Private roads and paved areas
 - VI. Pathways and sidewalks
 - VII. Grading and restoration
 - VIII. Any other improvements not regulated by another agency
 - e. Livingston County Road Commission (LCRC)
 - I. Public roads, streets, and right-of-ways
 - f. Livingston County Drain Commissioner (LCDC)
 - I. Public storm sewer and appurtenances
 - II. Stormwater management (detention, retention, etc.)
 - III. Soil Erosion Control
 - g. Livingston County Department of Public Health
 - I. Private septic fields
 - II. Private water wells
 - h. Marion Howell Oceola Genoa Water Authority (MHOG)
 - I. Public water distribution system and appurtenances
4. When plans are complete and ready for approval the Township Engineer will request additional sets of plans be submitted for distribution to MDEQ for sanitary sewer permitting (see item 7 in this section).
5. The applicant shall be responsible for submitting directly to the LCRC, LCDC, MHOG, and other separate regulatory agencies (MDOT, MDEQ for wetland permitting, etc.). Any such approvals shall be forwarded to the Township Zoning Administrator and the Township Engineer prior to beginning construction.
6. All public improvement plans submitted for permits must carry the seal and signature of the Design Engineer. Note that the amount and type of sanitary and/or water main pipe must be summarized on the cover sheet when MDEQ permitting is required.

7. Sanitary sewer plans along with a completed MDEQ Sanitary Sewer Permit Application Part 41, shall be provided to the Township Engineer. The Township engineer will have the Township execute the permit application and then forward the application and plans to the MDEQ for permitting.
8. Modification of Plan During Construction. All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. Any changes which result in a material alteration of the approved final site plan shall require resubmittal of a site plan, which shows the proposed changes, to the Planning Commission including any fees determined by the township Board of Trustees. The Planning commission or Township Board of Trustees may require the applicant to correct the changes so as to conform to the approved final site plan.
9. Phasing of Development. The applicant may, at their discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A site plan for each phase shall be submitted in accordance with the procedure herein for a final site plan including any fees required.
10. Appeals. No decision or condition related to a site plan approval shall be taken to the Zoning Board of Appeals
11. Fees. The Marion Township Board shall establish by resolution a fee schedule to defray costs, which may include but not be limited to inspection, plan review, administration, and enforcement of this section. Before final approval, any costs incurred by the Township shall be paid by the applicant. The applicant may also be required to post a cash Escrow Account according to Section 4.07 of the Marion Township Zoning Ordinance.

IV. INSURANCE

A. Prior to construction, the Contractor shall procure and maintain, during the term of the project, public liability and property damage insurance with a responsible insurance company which meets the approval of Marion Township, in such amounts as will be adequate to protect the public, Marion Township interests, and shall not be less than the limits set forth herein.

Type of Insurance:

1. Workmen's Compensation Insurance and Employer's Liability Limit: As required by laws of State of Michigan
2. Public Liability & Property Damage:

Bodily Injury:	Each Occurrence:	\$1,000,000
	Aggregate:	\$2,000,000
Property Damage:	Each Occurrence:	\$1,000,000
	Aggregate:	\$2,000,000
3. Owner's and Contractor's Protective Liability & Property Damage:

Bodily Injury:	Each Occurrence:	\$1,000,000
	Aggregate:	\$2,000,000
Property Damage:	Each Occurrence:	\$1,000,000
	Aggregate:	\$2,000,000
4. Motor Vehicle (including Owner, Hired and Non-Owned Vehicles):

Bodily Injury:	Each Occurrence:	\$1,000,000
Property Damage:	Each Occurrence:	\$1,000,000
Combined Single Limit:		\$2,000,000

B. Policies shall be made available to Marion Township and the Township Engineer for examination as to their validity and any undesirable exclusions deemed improper by legal opinion rendered to the Township regarding same. Underground construction, where applicable, shall be specified in the coverage. Certificates of coverage signed by the insurance carriers shall include a guarantee that 30 days written notice shall be given by the insurance carrier to Marion Township prior to cancellation of, or any change in the respective policies. In the event that the insurance is canceled, operations shall cease prior to the cancellation date and shall not resume until evidence is provided that proper insurance is again in effect. Additional Named Insured under Owners and Contractors Protective Public Liability and Property Damage Insurance shall include Marion Township, the Township Engineer (specifically by name) and members of staff, employees and agents for the Township.

C. The name of the proposed development must be included on the insurance documents.

V. CONSTRUCTION OBSERVATION PROCEDURES

Marion Township or their designated representative will provide observation on all proposed public utilities and improvements, as well as limited construction observation of private improvements. Any facilities installed without Township provided observation may not be accepted by the Township, and therefore may be required to be re-installed. The requirements and procedures for Construction Observation and final project closure shall be as follows.

A. Pre-Construction Meeting

1. Upon construction plan approval and receipt of all permits, but prior to commencing construction, a Pre-construction meeting shall be held. The Developer or the Developer's Authorized Representative shall contact the Township Engineer to schedule the Pre-construction meeting.
2. Attendees shall include: Township representatives, Township Engineer, Developer or Developer's Authorized Representative, Design Engineer, Underground and Paving Contractors and any interested regulatory agency.
3. At the Pre-construction meeting, the following information shall be provided:
 - a. Proof of insurance naming Marion Township and its Engineer as additionally insured.
 - b. All permits from other agencies (MDOT, MDEQ, LCRC, etc.).
 - c. Approximate schedule for construction.
4. Prior to the Pre-construction meeting, the contractor shall provide the inspection escrow to the Township. Proof of payment should be forwarded to the Township Engineer. The final approval letter from the Township Engineer will detail the amounts and basis of the escrow based upon industry standard production rates.
 - a. Unused observation and administration escrow funds will be eligible for return as described in the final approval letter.
 - b. The Township Engineer shall monitor the observation escrow and may require additional deposits. This shall be dependent on the contractor's rate of progress and the difficulty in completing the project.
 - c. Failure to keep the observation escrow current may result in withholding construction observation, and therefore possibly delaying construction.

B. Initially and/or after a significant delay in construction, the Township Engineer shall have a minimum 72 hour's notice (not including weekends or holidays) prior to the start of any construction requiring observation.

C. The Township's Engineer shall observe all public and private improvements according to the following criteria. The criteria may be adjusted for large or phased developments, at the discretion of the Township. The Township's Engineer may inspect all other operations requested by the Township.

1. Tree removal and site clearing – Representatives of the Township, the Township's Engineer, the Developer or Developer's Authorized Representative, the Design Engineer, and the Developer's Contractor will meet prior to beginning any site work. The meeting will take place on site after the removal/clearing limits have been marked or staked, with the purpose being to verify general compliance with the approved plans. The proposed clearing limits must be clearly marked on the site prior to the meeting.
2. Mass grading – The Township or the Township's Engineer will not review the site grading for compliance with the plans unless specifically directed by the Township. Responsibility for adhering to the approved grading plan shall fall upon the developer or their engineer/surveyor. Any irregularities observed while out performing other inspections will be brought to the Township's and developer's attention. A grading certificate as described under project acceptance requirements shall be required.

3. Soil erosion control - All inspections related to soil erosion control will be handled by the permitting agency, LCDC. Any problems observed by the Township's engineer while on site performing other inspections will be brought to the Township's, LCDC's, and the developer's attention.
 4. Water system improvements – Full time inspection will be provided by MHOG or their representatives as outlined in their approvals and permits.
 5. Sanitary system improvements – Full time inspection will be provided by the Township's Engineer.
 6. Storm system improvements (private sewers) – The Township's Engineer will perform a maximum of two (2) inspections during the storm sewer installation to verify general compliance with the plans and specifications. The developer shall be responsible for certifying the storm system prior to project acceptance. Copies of testing reports and all certifications shall be provided to the Township.
 7. Storm system improvements (public sewers) – All inspections related to public storm sewers will be handled by the permitting agency, LCDC, or the Township Engineer. Any problems observed by the Township's Engineer while on site performing other inspections will be brought to the Township's, LCDC's, and the developer's attention.
 8. Private road improvements – The Township's Engineer will perform inspections at critical junctions of the road construction process. Critical junctions will be defined as:
 - d. Witnessing the proof-roll of the sub-grade (Permit to place sub-base)
 - e. Verification of sub-base construction (Permit to place base)
 - f. Verification of base construction (Permit to place pavement material)
 - g. Two (2) inspections during the placing of the asphalt or concrete pavement to verify general compliance with the plans and specifications.
 The developer shall be responsible for certifying the road system prior to project acceptance. Copies of testing reports and all certifications shall be provided to the Township.
 9. Public road improvements - All inspections related to public road improvements will be handled by the permitting agency, LCRC. Any problems observed by the Township's Engineer while on site performing other inspections will be brought to the Township's, LCRC's, and the developer's attention.
- D. Acceptance of final project:
1. The Township Engineer will generate a preliminary punch list. Once the items have been addressed, the Township and the Township's Engineer will conduct a final site inspection.
 2. All punch list items must be addressed.
 3. All fees and escrows must be paid in full.
 4. A Maintenance and Guarantee bond should be provided to the Township. The bond should be 50% of the engineer's estimate for public improvements. The Township will keep the bond for two years from the date of acceptance.
 5. Record drawings and related documents must be provided to the Township:
 - a. Upon acceptance of field improvements, the Developer's Engineer will be provided with a copy of the Inspector's Daily Reports (IDR), any applicable lead reports, and a blank "Record Drawing Requirement Checklist" in order to provide record drawings to the Township's Engineer for review and approval.
 - b. A grading certificate will be required at this time. This form (provided by the Township's Engineer with IDR's) will also need to be signed and sealed by the

Developer's Engineer and then submitted to the Township's Engineer along with the record drawings.

- c. Easements for public utilities based on "As-Built" conditions requires a sketch and legal description to be submitted by the Developer's Engineer to the Township's Engineer for review and approval along with the record drawings. Once easements documents are approved, the Township's Engineer will mail the Developer/Township the easements to be recorded with the County Register of Deeds. Once the easements are recorded with liber and page number, recorded copies will need to be forwarded to the Township and the Township's Engineer.
- d. Once the record drawings are approved by the Township's Engineer, the Developer's Engineer will be instructed as to what is required for final distribution (i.e. bluelines, mylars, CD-ROM or possibly micro-film.)

MEMO

To: Marion Township Planning Commission

From: Bob Hanvey

Subject: Lot size and coverage

Date: November 27, 2018

The comments below are a selection from the previous notes about issues in our zoning ordinance regarding lots. I included more detail about my concerns.

Definition of "lot area gross," "lot area net," and "lot coverage."

It seems that the definitions are intended to differentiate between "lot area gross" and "lot area net" by including or excluding the area of road in front of the lot. (Behind the lot for lake front property).

"Lot area gross" references "street right-of-way" but "lot area net" adds the word "public" to the definition.

Lot coverage places a restriction on the area of the lot that is covered by structures but does not specify whether to use "lot area gross" or "lot area net" to calculate coverage.

In Marion most lots in subdivisions or site condominiums do not include any ownership of the road. See the plat of Apple Way Acres below.

Most metes-and-bounds parcels go to the center line of the road. On the aerial photo below, the four lots that are Apple Way Acres are adjacent to five metes-and-bounds lots. For the Apple Way parcels the gross and net area are the same since the road in the plat is not part of the lot. For the adjacent and approximately same size parcels, the area up to the center line of the road is included in the "gross lot size" and the road right-of-way is subtracted to get the "net lot size."

Attached condominium units don't include any ownership of land outside the building walls.

Zoning Ordinance Section 6.07, Accessory Uses and Structures, regulates the area allowed to be covered by accessory structures and specifies "gross lot area" as the basis for the maximum allowable area occupied by accessory structures. Metes-and-bounds parcels get an extra allowance when calculating allowable size of accessory structures since the road right-of-way is included in the calculation.

The specifications for minimum lot sizes in Rural Residential, Urban Residential, ERS 1 and ERS 2 do not specify "gross" or "net" but Suburban Residential specifies "net."

In calculating density, "net acreage" subtracts not only rights-of-way but also utility easements, wetlands, etc. but not required buffers/greenbelts.

What should we do about cleaning this up?

From the Definitions section of our Zoning Ordinance:

Buildable Area: The area of any lot or parcel of land that is actually buildable which for the purpose of developing land or computing densities, shall not include existing or proposed rights-of-way for public or private roads, major utility or pipeline easements, floodplains, wetlands (regulated and non-regulated), lakes, ponds, streams, or any other body of water, except as otherwise provided for in this Ordinance.

Density: The number of dwelling units situated on or to be developed on a parcel of land that shall be calculated on the buildable area or **net acreage** of the parcel. (See definition for Buildable Area.)

Lot Area, Gross: The area contained within the lot lines or property boundary including street right-of-way. (See Figure 3-6.)

Lot Area, Net: The area within the lot lines of a lot, exclusive of any public street rights-of-way abutting any side of the lot. (See Figure 3-6.)

Lot Coverage: The amount of a lot, stated in terms of percentage, which is covered by all buildings, located thereon, including roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but not including fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

From Section 8 of our Zoning Ordinance

Rural Residential

Site Development Requirements: The following minimum and maximum standards shall apply to all uses and structures in the RR: Rural Residential District unless they are specifically modified by the provisions of Article VI: General Provisions; Article XVII: Standards for Specific Special Land Uses; or Article XVIII: Planned Unit Developments, or as varied pursuant to Article V, Zoning Board of Appeals.

1. **Minimum Lot Area:**

- a. **Unplatted Parcel Division:** No building or structure shall be established on a parcel less than two (2) acres.
- b. **Platted Lot or Condominium Unit:** No building or structure shall be established on a lot or unit less than (1) acre.

Suburban Residential

Site Development Requirements: The following minimum and maximum standards shall apply to all uses and structures in the SR: Suburban Residential District unless they are specifically modified by the provisions of Article VI: General Provisions; or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

- 1. **Minimum Net Lot Area:**
 - a. No building or structure shall be established on a parcel less than 32,670 square feet (0.75 acre).
 - b. A building or structure with public sewer may be established on a parcel of not less than 20,000 square feet providing the frontage of said parcel is not on a major thoroughfare.

Urban Residential

Site Development Requirements: The following minimum and maximum standards shall apply to all uses and structures in the UR: Urban Residential District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

- 1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than fifteen thousand (15,000) square feet.

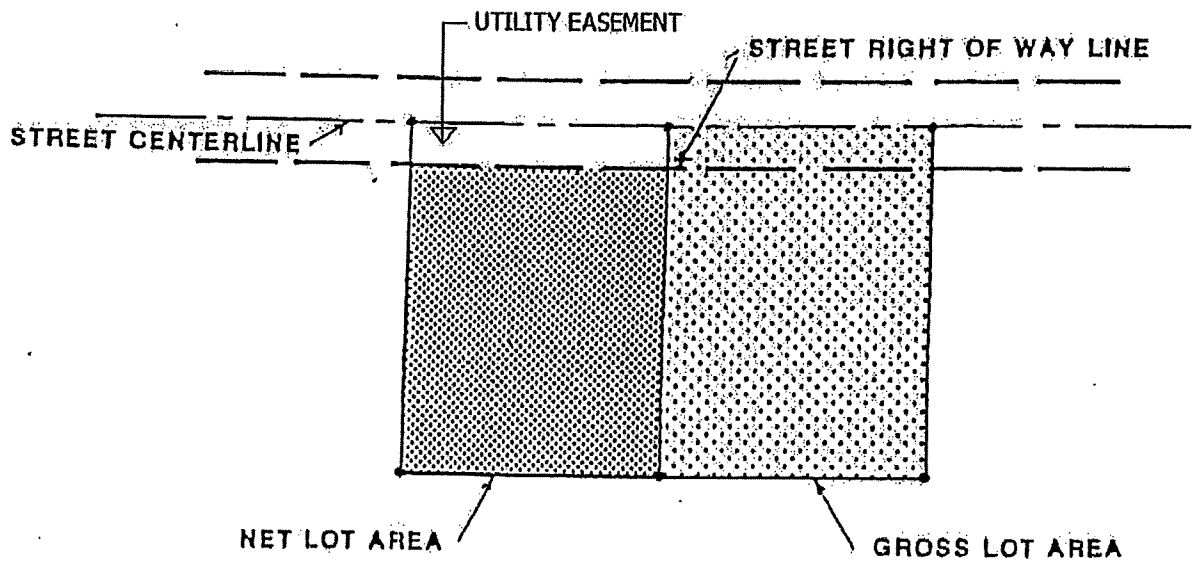
ERS 1 and ERS 2

Site Development Requirements: The following minimum and maximum standards shall apply to all uses and structures in the ERS: Existing Residential District unless specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

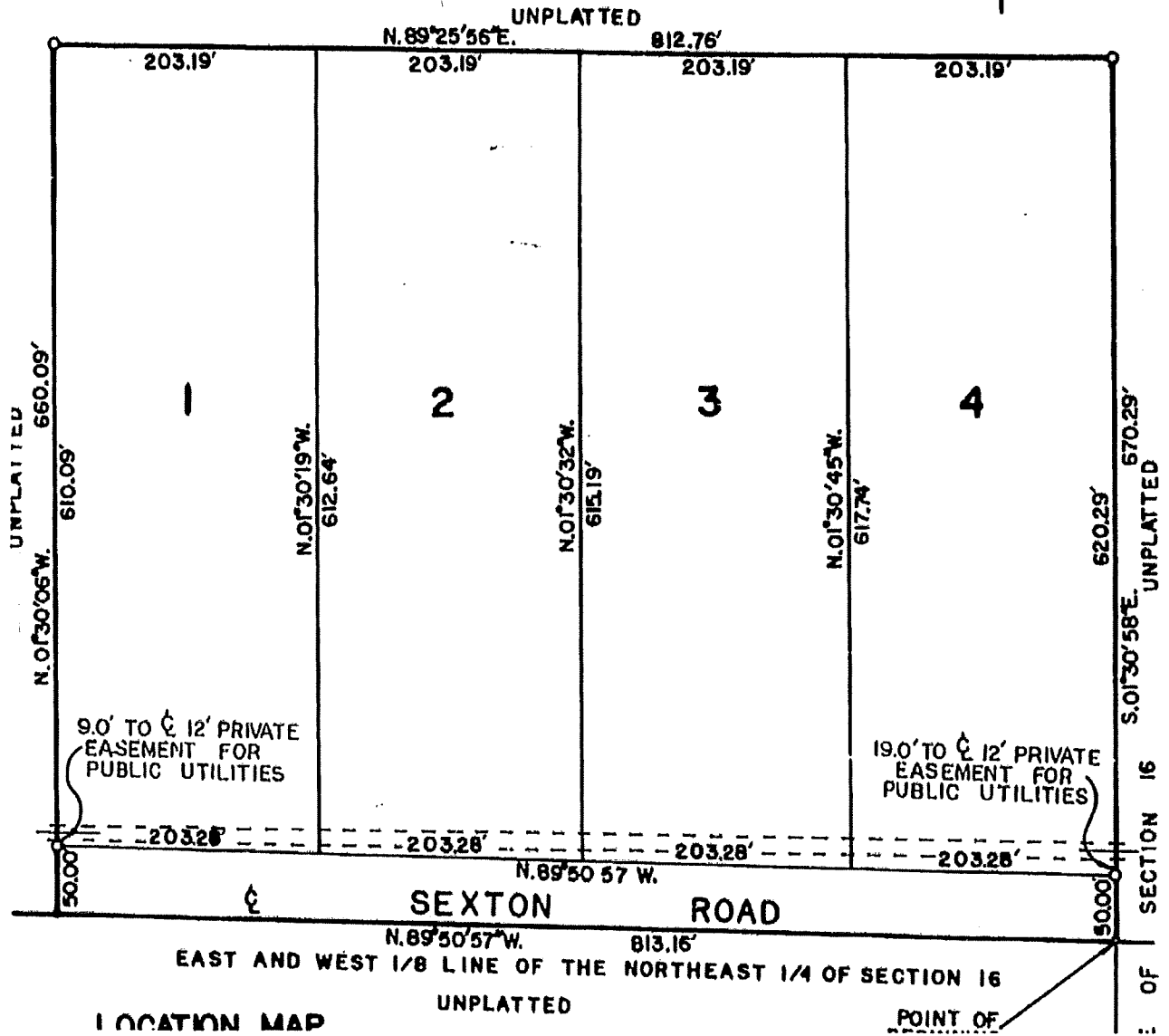
- 1. **Minimum Lot Area:** No single-family dwelling or structure shall be established on any parcel of a size less than the following, for the sub district the parcel is located within:
 - a. ERS-1: Eighteen thousand (18,000) square feet.
 - b. ERS-2: One (1) acre.

From our Zoning Ordinance

FIGURE 3-6
NET AND GROSS LOT AREA



Apple Way Acres Plat (enlarged)



ARTICLE XXXX

WELLHEAD PROTECTION OVERLAY DISTRICT

**Marion Township Zoning Ordinance
Livingston County, Michigan**

Insert Date Here

DRAFT

Table of Contents

ARTICLE XXXX WELLHEAD PROTECTION OVERLAY DISTRICT	1
SECTION 1 – STATEMENT OF PURPOSE.....	1
SECTION 2 – DEFINITIONS.....	1
SECTION 3 – SCOPE OF AUTHORITY	2
SECTION 4 – CREATION OF OVERLAY DISTRICT BOUNDARIES	2
SECTION 5 – DISTRICT DELINEATION	2
SECTION 6 – SITE PLAN REVIEW REQUIREMENTS.....	2
SECTION 7 – DATA REQUIREMENTS.....	2
SECTION 8 – PERMITTED PRINCIPAL USES.....	4
SECTION 9 – CONDITIONAL USES	4
SECTION 10 –CONDITIONS	5
SECTION 11 – PROHIBITED USES	5
SECTION 12 – MISCELLANEOUS REQUIREMENTS	7
SECTION 13 – ENFORCEMENT	8
SECTION 14 – VARIANCE/APPEAL RIGHTS.....	8
SECTION 15 – ABATEMENT/REMEDIAL ACTIVITIES BY THE TOWNSHIP.....	9
SECTION 16 – INJUNCTIVE RELIEF	9
SECTION 17 – VIOLATIONS DEEMED A PUBLIC NUISANCE	9
SECTION 18 – CRIMINAL PROSECUTION.....	9
SECTION 19 – REMEDIES NOT EXCLUSIVE.....	10

ARTICLE XXXX

WELLHEAD PROTECTION OVERLAY DISTRICT

Section 1 – STATEMENT OF PURPOSE

The purpose of the Wellhead Protection Overlay District is to provide supplemental developmental regulations in the designated wellhead protection zone so as to protect and preserve the surface and groundwater resources of Marion Township and the region from any use of land or buildings that may reduce the quality and/or quantity of water resources. This Wellhead Protection Overlay District has been created in accordance with both the City of Howell's and Marion, Howell, Ocoola & Genoa Sewer and Water Authority's (MHOG) **Wellhead Protection Plans** drafted by Wood Environment & Infrastructure Solutions, Inc. (Wood). This Wellhead Protection Overlay District was also created in conjunction with the City of Howell and Howell Township.

Section 2 – DEFINITIONS

As used in this Article, the following words and terms shall have the meaning specified, unless the context clearly indicates otherwise.

Aquifer. A geologic formation composed of rock or sand and gravel that contain significant amounts of potentially recoverable potable water.

Discharge. Discharge includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying or dumping of any pollutants prohibited by law or regulation, which affects surface water and/or groundwater.

Impervious Surface. Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Overlay District. That area of the Township in which special requirements and restrictions are applied to land uses and activities to eliminate or minimize contamination of the aquifers supplying the City of Howell's and MHOG's municipal water wells.

Regulated Substances shall include: 1. Substances for which there is a material safety data sheet (MSDS), as established by the United States Occupational Safety and Health Administration, and the MSDS cites possible health hazards for said substance; 2. Hazardous Waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended; 3. Hazardous Substance, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. EPA regulations; 4. Radiological materials; and 5. Biohazards.

Wellhead Protection Area. The surface and subsurface area surrounding a public water supply well or well field through which contaminants, if discharged, are reasonably likely to move toward and reach the well or the well field. This area is also known as the zone of contribution (ZOC) which contributes groundwater to the well or well field. Wellhead Protection Areas for both the City of Howell and MHOG are present in areas of the Township.

Section 3 – SCOPE OF AUTHORITY

The Wellhead Protection Overlay District is a mapped zoning district that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an overlay district is established, the property is placed simultaneously in the two districts, and the property may be developed only under the applicable conditions and requirements of both districts. In the event there is a conflict between the requirements of the two districts, the requirements of the Wellhead Protection Overlay District shall prevail.

Section 4 – CREATION OF OVERLAY DISTRICT BOUNDARIES

The Wellhead Protection Overlay District boundaries shall be established on the official Township Zoning Map. The Overlay District boundaries may be amended according to the Zoning Ordinance procedures in Article YYYY.

Section 5 – DISTRICT DELINEATION

- A. The Wellhead Protection Overlay District is hereby established to include all lands within the Marion Township, lying within the City of Howell's of MHOG's Wellhead Protection Areas, including recharge areas of groundwater aquifers and watershed areas that lie within the wellhead protection area which now or may in the future provide public water supply. If the wellhead protection area includes a portion of the parcel, the entire parcel shall be considered to be within the wellhead protection area.
- B. Where the boundaries delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show whether the property should be located in the District. At the request of the owner(s), the Township may engage the services of a qualified professional to determine more accurately the location and extent of an aquifer within the wellhead protection area. The Township shall charge the owner(s) for all or a part of the investigation. The Owner shall place the funds necessary into an escrow account at the Township to cover the necessary fees of the qualified professional.

Section 6 – SITE PLAN REVIEW REQUIREMENTS

- A. **New or Expanded Uses and Structures.** All proposed new or expanded structures or uses within in the Wellhead Protection Overlay District, except single family uses, shall be subject to site plan review, pursuant to Article WWWW.
- B. **Existing Uses and Structures.** All land uses and activities existing prior to approval the Wellhead Protection Overlay District must conform to the site plan review standards in this Article within 365 days after adoption of the Wellhead Protection Overlay Ordinance.

Section 7 – DATA REQUIREMENTS

The following data are required for site plan review in the Wellhead Protection Overlay District, in addition to the information required by Article WWWW, Section WWWW of the Zoning Ordinance.

- A. **List of Regulated Substances.** A complete list of chemicals, pesticides, fuels and other Regulated Substances to be used or stored on the premises. Businesses that use or store such Regulated Substances shall file a management plan with the Fire Chief. The management plan shall include the following, at minimum:

1. Provisions to protect against the discharge of Regulated Substances or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 2. Provisions for indoor, secured storage of Regulated Substances and wastes with impervious floor surfaces.
 3. Evidence of compliance with the rules and regulations of the Michigan Department of Environmental Quality.
 4. Drainage recharge features and provisions to prevent loss of recharge.
 5. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- B. Service Facilities and Structures.** Location of existing and proposed service facilities and structures, above and below ground, including:
1. General location of the site within the Wellhead Protection Overlay District.
 2. Areas to be used for the storage, loading/unloading, recycling, or disposal of Regulated Substances, including interior and exterior areas.
 3. Underground storage tank locations.
 4. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- C. Water Resources.** Location of existing wetlands and watercourses, including ponds and streams on or within a quarter mile of the site.
- D. Soils.** Soil characteristics of the site, at least to the detail provided by the Natural Resources Conservation Service.
- E. Topography.** Existing topography of the site, with a maximum contour interval of two (2) feet.
- F. Existing Contamination.** Delineation of areas on the site that are known or suspected to be contaminated, together with a report on the status of site clean-up.
- G. MDEQ Checklist.** Completion of a Michigan Department of Environmental Quality (MDEQ) checklist, indicating the types of environmental permits and approvals that may be needed for the project.

Section 8 – PERMITTED PRINCIPAL USES

The following uses shall be permitted in the Wellhead Protection Overlay District, provided they comply with all applicable restrictions and standards specified in this Article:

- A. Single family residential uses.
- B. Residential accessory uses, including garages, driveways, private roads, utility rights-of-way, and on-site wastewater disposal systems (i.e., septic systems).
- C. Agricultural uses such as farming, grazing, and horticulture.
- D. Forestry and nursery uses.
- E. Outdoor recreation uses, including fishing, boating, and play areas.
- F. Conservation of water, plants, and wildlife, including wildlife management areas.

Section 9 – CONDITIONAL USES

The following uses may be permitted subject to conditions specified for each use, review and recommendation by the Planning Commission and approval by the Township Board, and subject further to any special conditions that are necessary to fulfill the purposes of this Ordinance, and the provisions set forth in Article UUUU:

- A. Commercial, industrial, governmental or education uses which are allowed in the underlying district, and which are not prohibited in Section 11.
- B. Any enlargement, intensification, alteration, or change of use of an existing commercial, industrial, governmental or education use.
- C. The rendering impervious of more than fifteen percent (15%) or 2,500 sq. ft. of any parcel, whichever is less, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of the groundwater.
- D. The mining or excavation for removal of earth, loam, sand, gravel and other soils or mineral resources, provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water fluctuation data compiled by the United States Geological Survey). One (1) or more monitoring wells shall be installed by the property owner to verify groundwater elevations. This sub-section shall not apply to excavations incidental to permitted uses, including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
 - 1. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.
 - 2. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.

- E. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for removal of ice and snow on roads, provided such chemicals are covered and located on a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- F. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials provide that such materials are stored in accordance with the manufacturer's label instructions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture and that they are used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices" and all other necessary precautions are taken to minimize adverse impact on surface and groundwater.
- G. The storage of commercial fertilizers and soil conditioners provided such storage shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- H. All liquid Regulated Substances, provided such materials must be stored either in a freestanding container within a building, or in a freestanding container above ground level with protection to contain a spill the size of the container's total storage capacity.

Section 10 – CONDITIONS

In addition to Section 9, Conditional Uses shall comply with the following:

- A. The Township Board may grant Conditional Use approval only upon finding that the proposed use meets to the following standards:
 - 1. In no way, during construction or thereafter, shall a project adversely affect the quality or quantity of water that is available in the Wellhead Protection Overlay District.
 - 2. The project shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and water-related natural characteristics of the site to be developed.
- B. The Township Board shall not approve a Conditional Use under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards of this section.

Section 11 – PROHIBITED USES

The following uses are prohibited in the Wellhead Protection Overlay District:

- A. Business and industrial uses that generate, use, treat, process, store, or dispose of Regulated Substances, including but not limited to metal plating, chemical manufacturing, wood preserving, and dry cleaning factory, except for the following:
 - 1. Generators of a very small quantity of Regulated Substances (less than 20 kilograms or six (6) gallons per month), subject to Special Land Use review.
 - 2. Municipally-operated or sanctioned household waste collection stations.
 - 3. Waste oil retention facilities.

4. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities have been approved by the Michigan Department of Environmental Quality.
- B. Business and industrial uses that dispose of process wastewater on-site.
- C. Solid waste landfills, dumps, landfilling, spreading or storage of sludge or septage, with the exception of disposal of brush or stumps.
- D. Storage of liquid petroleum products of any kind, except for the following:
1. Storage that is incidental to:
 - a. Normal household use and outdoor maintenance or the heating of a structure.
 - b. Use of emergency generators.
 - c. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities has been approved by the Michigan Department of Environmental Quality.
 2. Replacement of storage tanks and systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Article, provided that:
 - a. All such replacement storage tanks or systems shall be located underground as required by the Michigan Department of Environmental Quality.
 - b. All such storage systems shall be protected by a secondary containment system as specified by the Michigan Department of Environmental Quality.
 - c. The Fire Chief may deny an application for tank replacement, or approve it subject to conditions if he/she determines that it would constitute a danger to public or private water supplies.
- E. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- F. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic systems cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household Regulated Substances.
- G. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Wellhead Protection Overlay District that contains sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.
- H. Sewage disposal systems that are designed to receive more than 110 gallons of sewage per quarter acre per day or 440 gallons of sewage per acre per day, whichever is greater, provided that:
1. The replacement or repair of an existing system shall be exempted if it does not result in an increase in design capacity above the original design.

2. In calculating the maximum sewage disposal system density, it shall be assumed that each single-family-residential home will generate 280 gallons of sewage per day.
3. The maximum sewage disposal system density may be computed using the following method:
 - a. On an individual per lot basis (i.e., a single-family home typically generates 280 gallons of sewage per day, creating the need for a minimum lot area of $\frac{3}{4}$ acre.

In addition to meeting the above standards, all lots shall conform to any applicable minimum lot size requirements specified in Article VVVV of the Zoning Ordinance.

- I. Wastewater treatment works, except the following:
 1. The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system.
 2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system.
 3. Treatment works designed for the treatment of contaminated ground or surface waters.

Section 12 – MISCELLANEOUS REQUIREMENTS

The following requirements shall apply to all uses in the Wellhead Protection Overlay District:

- A. **Drainage.** For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.
- B. **Discharge of Regulated Substances.** The property owner shall prevent the discharge of regulated substances.
 1. Upon discovery of a discharge within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge. Remediation shall be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approved obtained from, the Township Supervisor or his/her designee.
 2. All discharges shall be documented in writing and mailed to the Township Supervisor or his/her designee within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:
 - i. Location of the discharge (name, address, and phone);
 - ii. Reporting party's name, address and phone (if different from above);
 - iii. Emergency contact and phone;

- iv. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) discharged;
 - v. Map showing exact discharge location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;
 - vi. All measures taken to clean up the discharge; and
 - vii. All measures proposed to be taken to reduce and prevent any future discharge.
3. The Township Supervisor or his/her designee shall determine if and where any additional investigative work needs to be completed to assess the potential impact of the discharge. The owner or operator shall retain a copy of the written notice for at least three years.

Section 13 – ENFORCEMENT

- A. Whenever the Township Supervisor or his/her designee determines that a person has violated a provision of this Ordinance, the Township Supervisor or his/her designee may order compliance by issuing a written Notice of Violation to the responsible person/facility.
- B. If the Township Supervisor or his/her designee requires abatement of a violation and/or restoration of affected property, the notice shall set forth a deadline by which such action must be completed. Said notice may further advise that, should the violator fail to remediate or restore within the established deadline, the work could be performed by the Township, with the resulting expense thereof charged to the violator and the expenses may be assessed onto the property if the property owner is also the violator.

Section 14 – VARIANCE/APPEAL RIGHTS

- A. If an owner of property within a Wellhead Protection Area believes the requirements of this ordinance impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Marion Township Zoning Board of Appeals ("ZBA") in any appeal to the ZBA, the Township Consulting Engineer shall assist the ZBA for purposes of a variance request or of appeal rights. Such a request must be in writing with enough detail to allow the Township Consulting Engineer shall assist the ZBA for purposes of a variance request or of appeal rights, to understand the situation and proposed variance. If the Township Consulting Engineer determines that additional information is needed, the request for additional information shall be made within 15 days of the owner's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request a hearing in front of the ZBA. The ZBA shall grant, deny, or partially grant the request. A grant, partial or complete, may relieve the property owner from strict compliance of this Ordinance. Reasonable conditions may be imposed by the ZBA as part of such a grant. The ZBA shall be guided by the primary goal of protecting the Township's Wellhead Protection Area without creating undue hardship upon the property owners affected.
- B. Any person receiving a notice of violation may appeal the determination by submitting a written notice of appeal to the Marion Township Zoning Board of Appeals. The notice of appeal must be received by the Zoning Board of Appeals within 30 days from the date of the notice of violation, with enough detail to allow the Township's Consulting Engineer, as a staff representative to the ZBA to understand the situation. Within 30 days of the receipt of such an appeal, the Township Consulting Engineer shall issue a written response to the appeal to the applicant and to the ZBA unless the Township Consulting Engineer has requested additional information, in which case the Township Consulting Engineer's response shall be issued within 30 days of receipt of the information. The Zoning Board of Appeals shall affirm, reverse or modify the notice of violation being appealed.

- C. If the person who has made a variance request or an appeal of a notice of violation does not agree with the decision of the ZBA, said person may appeal the matter by filing an action in the Livingston County Circuit Court, which may affirm, reverse or modify the decision being appealed. Such an appeal must be filed within 30 days of the decision of the ZBA or within the time period required by Michigan General Court Rules, whichever has the shortest appeal period.

Section 15 – ABATEMENT/REMEDIAL ACTIVITIES BY THE TOWNSHIP

- A. The Township is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this Ordinance has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the Township for all expenses thus incurred by the Township.
- B. If the Township desires the responsible party to reimburse it for the abatement activity expenses, the Township, shall within 90 days of the completion of such activities mail to that person a notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Township, said person may file, within the same 30-day period, a written objection so stating. The Township shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Township determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the Township may cause the charges to become a special assessment against the property and shall constitute a lien on the property. In the alternative, the Township may attempt collection of the sum due by filing a civil lawsuit.

Section 16 – INJUNCTIVE RELIEF

- A. If a person has violated or continues to violate the provisions of this Ordinance, the Township may petition the appropriate court for injunctive relief restraining the person from activities abatement or remediation.

Section 17 – VIOLATIONS DEEMED A PUBLIC NUISANCE

- A. In addition to the enforcement processes and penalties provided, 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, and may be summarily abated or restored at the violator's expense, and/or a civil infraction to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Township.

Section 18 – CRIMINAL PROSECUTION

- A. Any violation of this Ordinance shall be considered a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation. A citation charging such a misdemeanor may be issued by the Township Supervisor, his or her designee, the Township's Ordinance Enforcement Officer or the Sheriff's Department.

Section 19 – REMEDIES NOT EXCLUSIVE

- A. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department to seek cumulative remedies.

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