

Township of Nelson

COUNTY OF KENT, MICHIGAN

REGULATORY ORDINANCES

(Including all amendments as of June 12, 2007)

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USE OF TRAILER COACHES AS RESIDENCES

(Ord. No. 1, 1960)

AN ORDINANCE to regulate and license the use and occupancy of house trailers used as residences and not located in licensed trailer coach parks.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

No person shall hereafter use or permit the use of any trailer coach as a residence on any lot or tract of land in Nelson Township which is not licensed as a trailer coach park, except after first obtaining a written permit therefor as hereinafter provided.

Section 2.

All applications for such permits shall be made to the Township Clerk and shall contain the information required by Act 172 of the Public Acts of 1958, being Section 5.278 (22) MSA, and shall be accompanied by a registration fee of \$5.

Section 3.

Each permit for the use of a trailer coach as a residence shall expire and be subject to renewal 12 months from the date of original issue, provided, however, that each such permit shall be automatically renewed for successive six-month periods without the payment of further registration fees or the filing of further applications if such trailer coach has not been moved from the original licensed location, the condition of the waste disposal facilities and the sanitation of the premises remains unchanged and conforms with all applicable health and zoning requirements, and there has been no change in the ownership or occupancy of the trailer coach since the permit was originally issued.

Section 4.

In the event a permit cannot be automatically renewed under the conditions provided in Section 3 hereof, then upon the expiration of such permit the owner of such trailer coach may apply in writing for a renewal for an additional six-month period, which renewal will be granted upon the payment of a \$3 registration and inspection fee if the conditions required by said Act 172, Public Acts of 1958, are met.

Section 5.

This Ordinance shall become effective August 12, 1960.

Adopted: August 9, 1960

**AN ORDINANCE TO LICENSE DUMPS AND
TO REGULATE THEIR OPERATION**

(Ord. No. 2, 1963; Amended by Ord. No. 96, 1995)

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

“Dump” shall mean any privately owned place where trash or other refuse is stored or disposed of by persons other than the property owner, whether for a fee or not, or a place where trash or other refuse is stored or disposed of by a property owner who is in the business of collecting or picking up trash or refuse from others.

Section 2.

No person shall dump or otherwise deposit trash or other refuse on any property owned by someone other than himself, and no property owner shall dump or otherwise deposit trash or other refuse on his property which he has picked up or collected from others, except as such premises are licensed as a dump under the terms of this Ordinance.

Section 3.

No dump existing as of the date of this Ordinance shall continue to operate after March 1, 1964 unless a license is obtained therefor, and no dump shall hereafter be established and operated until a license has first been obtained therefor. Application for such license shall be made by the proposed operator to the Township Board in writing. Such application shall identify the location where the proposed dump is to be operated, the hours it is to be open, the fee to be charged for the use of the dump, if any, and the methods which the operator will use to prevent the dump from becoming a public nuisance or source of disease.

Section 4.

Under no circumstances will garbage or other vegetable waste matter be permitted to be dumped in any dump, nor shall anything be dumped and left unburied which would create a nuisance by causing an offensive odor if left to decay. The operator shall take all steps which may be reasonably required to prevent the dump from becoming a nuisance or source of disease because of the presence of rats and other vermin.

Section 5.

No fires of any kind shall be started on a dump, except at such times and such places as may have previously been approved by the Township Fire Chief. At no time shall any dump be left unattended while a fire is burning thereon.

Section 6.

From and after March 1, 1964 a fence of sufficient height and quality to keep paper and other refuse from blowing off the dump premises shall be constructed and properly maintained at all points where any dump adjoins a public highway. Further fencing may be required in any particular case if the Township Board finds that such fencing is necessary to protect or preserve the public safety or the general welfare of the Township and the neighborhood. If the dump is locked for any period, the Township fire authorities shall be given a key for use in the event of fire.

Section 7.

Dumping shall be permitted in only those areas of the dump designated by the operator, and only a reasonably sized part of the dump shall be in active use and not filled over with suitable cover at any one time. Areas upon which material has been dumped and which are not in active use will be filled over and covered by the operator with at least six inches of dirt or sand.

Section 8.

A dump license may be revoked by the Township Board at any time for violation of any provision of this Ordinance if the operator fails to correct such violation within five days after written notice thereof is served on him by the Township.

Section 9.

No license fee shall be charged until March 1, 1964. From and after March 1, 1964 the license fee to cover the period of March 1 to the following February 28 shall be \$24. Persons first establishing and operating a dump after March 1, 1964, or after March 1 of any year thereafter, shall pay a prorata share of the 12- month license fee. Dump licenses shall be effective from the date granted until the following February 28 unless revoked sooner as provided in Section 8 and may be renewed upon the filing of an application therefor and the payment of the license fee, provided that the operator has, in all respects, complied with the terms of this Ordinance.

Section 10.

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity shall not affect any of the other provisions of this Ordinance.

Section 11.

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the

ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense.

Section 12.

This Ordinance shall take effect on the 31st day after the publication thereof in some newspaper circulated in this Township.

Adopted: August 13, 1963

**ORDINANCE TO LICENSE AND REGULATE THE
ESTABLISHMENT AND OPERATION OF JUNK YARDS**

(Ord. No. 3, 1963; Amended by Ord. No. 97, 1995)

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

No junk yard shall hereafter be established in Nelson Township, except as it is licensed by the Township Board in the manner herein provided. No junk yard existing as of the date of this Resolution and Ordinance shall continue to operate after March 1, 1964 unless a license is obtained therefor. From and after January 1, 1964 no junk yard shall be operated, except in conformity with all of the rules and regulations set forth in this Resolution and Ordinance. For the purposes of this Resolution and Ordinance, a junk yard is a place where discarded or salvaged materials are bought, sold, stored, disassembled, or handled, including a place used for the dismantling and/or wrecking of motor vehicles, or of disposing of the parts, scrap or refuse materials from such vehicles, yards used for salvaged house wrecking and structural steel materials and equipment, and similar yards used for the storage, dismantling or sale of discarded or salvaged materials.

Section 2.

From and after January 1, 1964 every junk yard shall be completely enclosed by a solid fence or wall not less than six feet high and shall be so constructed as to completely conceal all stored materials from adjacent property. All discarded, salvaged, or stored materials and all automobiles and dismantled parts thereof and all work in connection with the operation of the junk yard shall be done within such enclosure.

Section 3.

Every operator of a junk yard shall apply in writing for a license within the time and manner provided in Section 1. The application shall indicate the site of the proposed junk yard, identify the owners of the premises and the person or firm which will be responsible for its operation and shall also show what type of building and fencing shall be used and shall contain a sketch showing the location of all proposed buildings and fences on the site. If the application involves the establishment of a junk yard after the adoption of this Resolution and Ordinance, then the operator, before making such application, shall obtain from the owners of all land within 1,000 feet of the proposed junk yard a written indication of whether such person recommends or does not recommend the granting of a junk yard license. Such recommendations shall be filed with the application but shall not be binding on the Township Board in granting or denying a license.

Section 4.

No license fee shall be charged until March 1, 1964. From and after March 1, 1964 the license fee to cover the period from March 1 to the following February 28 shall be \$24. Persons first establishing and operating a junk yard after March 1, 1964, or after March 1 of

any year thereafter, shall pay a pro-rata share of the 12-month license fee. Junk yard licenses shall be effective from the date granted until the following February 28 unless revoked sooner as hereinafter provided and may be renewed upon the filing of an application therefor and the payment of the license fee, provided that the licensee has, in all respects, complied with the terms of this Resolution and Ordinance.

Section 5.

The Township Board, upon a proper application being filed, together with the required license fee, will grant such license if it determines that the operation of a junk yard as proposed in the application will not be of substantial detriment to adjoining property and will not adversely affect the public safety and welfare of either the neighboring area or the Township as a whole. Such license shall be valid from the date granted until the following February 28 unless sooner revoked as hereinafter provided. Any license may be revoked for violation of any provision of this resolution if the licensee fails to correct such violation within five days after written notice thereof is served on him by the Township.

Section 6.

No fires shall be permitted on the premises, except during normal business hours when at least one responsible person is in attendance on the site.

Section 7.

The granting of a junk yard license by the Township Board shall not in any way affect the requirements of State law regarding the filing of periodic reports and other information by the operator with the proper public authorities.

Section 8.

The parts of this Resolution and Ordinance are severable and in the event that any part is found or declared to be illegal, the invalidity of such section or part shall not affect the validity of the remaining sections or parts.

Section 9.

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense. In addition to municipal civil infraction penalties provided for herein, the Township may institute civil proceedings for abatement and termination of the violation.

Section 10.

This Resolution and Ordinance shall take effect on the 31st day after the publication thereof in some newspaper circulated in this Township.

Adopted: August 13, 1963

INOPERABLE MOTOR VEHICLE ORDINANCE

(Ord. No. 6, 1971)

An ordinance to regulate the outdoor storage of inoperable motor vehicles in the Township of Nelson and to provide for penalties for violation thereof.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Storage of Inoperable Motor Vehicle or Parts Thereof.

It is hereby declared to be unlawful for any person, firm, or corporation to store, place or permit to be stored or placed any inoperable motor vehicle or any part or parts of a motor vehicle on land located in the Township of Nelson, except as the same may be permitted under the provisions of the zoning ordinance of the Township of Nelson, unless said inoperable motor vehicle or part of or parts of a motor vehicle shall be kept in a wholly enclosed garage or other wholly enclosed structure; provided, however, that any owner or occupant of said land may store or permit to be stored one such inoperable motor vehicle for a period of not to exceed 48 hours if such a motor vehicle is registered in his, her, or its name; and provided further that any such owner or occupant, in the event of hardship and upon payment of the fee hereinafter provided, may secure a permit from the Building Inspector of the Township of Nelson to extend such period of 48 hours for an additional period of not to exceed one week for any one such inoperable motor vehicle. This Ordinance shall not be construed to permit the parking or placing of inoperable motor vehicles on any street area in the Township or in any front yard as such as defined by the zoning ordinance of the Township of Nelson.

Section 2. Permits.

Upon application duly made by the registered owner of a motor vehicle and upon a showing of hardship, which hardship can be eliminated by an extension of time as herein permitted, the Building Inspector of the Township of Nelson is hereby authorized to issue the permits referred to in Section 1 hereof.

No such permits shall be granted for successive weeks for any one motor vehicle. A fee of \$1 shall be collected for each such permit so issued, and shall be paid into the general fund.

Section 3. Definitions.

- A. Motor vehicles are hereby defined as any wheel vehicles which are or are intended to be operable as self-propelled vehicles.
- B. Inoperable motor vehicles are defined as motor vehicles which by reason of dismantling, disrepair, or other cause are incapable of being propelled under their own power or are unsafe for operation on the streets and highways of the state because of inability to comply with the State Motor Vehicle Code.

Section 4. Construction.

This Ordinance shall not be construed as repealing any ordinance now in effect or hereafter make effective relating to the keeping of rubbish, litter, garbage, refuse, trash, or junk but shall be construed as supplementary to any such ordinance as well as to any statutes of the State of Michigan relating thereto.

Section 5. Nuisance.

The presence of an inoperable motor vehicle or parts of a motor vehicle in violation of the terms of this Ordinance is hereby declared to be a public nuisance.

Section 6. Penalties.

Violation of this Ordinance shall be a misdemeanor punishable by a fine of not more than \$100, or by imprisonment in the County Jail for a period of not to exceed 90 days or both such fine and imprisonment. Each day that such violation shall continue shall constitute a separate and distinct violation of the provisions of this Ordinance.

Section 7. Severability.

The provisions of this Ordinance are hereby declared to be severable, and if any clause, sentence, paragraph, section or sub-section is declared to be void or ineffective for any reason, it shall not affect any other part or portion hereof.

Section 8. Effective Date.

This Ordinance shall be effective 30 days after publication hereof.

Adopted: August 10, 1971

REGULATION AND REMOVAL OF JUNK AND INOPERABLE MOTOR VEHICLES ORDINANCE

(Ord. No. 9, 1973; Amended by Ord. No. 98, 1995)

An ordinance to provide for the regulation and removal of junk and inoperable vehicles and motor vehicles.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Definitions.

- A. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon rails or tracks.
- B. "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails.
- C. "Inoperable vehicle or motor vehicle" means any vehicle or motor vehicle which cannot be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the State of Michigan, or which does not bear valid and current license plates.
- D. "Junked vehicles or motor vehicles" include all parts or accessories of vehicles or motor vehicles without which vehicles or motor vehicles cannot be operated in a safe manner on city streets or public highways.
- E. "Junked vehicles or motor vehicles" mean vehicles or motor vehicles which have been so damaged or dismantled as to be total losses.
- F. "Total loss" means the cost to repair a damaged or dismantled vehicle or motor vehicle exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally recognized appraisal books or method.

Section 2. Storage of Inoperable or Junked Vehicles or Motor Vehicles.

No person, firm, or corporation shall accumulate, store, place or permit the accumulation, storage, or placement of any inoperable or junk vehicle or motor vehicle in Nelson Township, for more than 48 hours, unless such inoperable or junk vehicle or motor vehicle is stored in compliance with the zoning ordinance of Nelson Township or in enclosed garages or other structures.

Section 3. Prima Facie Evidence.

The ownership, occupation or use of land by any person, firm or corporation upon which an inoperable or junked vehicle or motor vehicle are accumulated, stored, or placed shall be

prima facie evidence that such person, firm, or corporation accumulated, stored or placed such inoperable vehicle or motor vehicle upon such land, or permitted such inoperable vehicle or motor vehicle to be accumulated, stored or placed upon such land.

Section 4. Penalties.

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

Section 5. Adoption and Effective Date.

- A. This Ordinance was adopted by the Township Board of Nelson Township at a regular meeting held on the 14th day of May, 1973.
- B. This Ordinance shall be effective 30 days after its publication in a newspaper of general circulation in Nelson Township.

Adopted: May 14, 1973

TOWNSHIP TRASH ORDINANCE

(Ord. No. 10, 1973; Amended by Ord. No. 99, 1995)

As an ordinance to prevent, reduce or eliminate blight, blighting factors, or causes of blight, within the Township, and to secure the public health, safety, and general welfare by prohibiting the accumulation of trash and junk or either of them on premises other than in properly designated sanitary landfills or licensed junk yards, and to provide penalties for the violation of said ordinance.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Definitions.

- A. The terms "Trash" and "Junk" are used synonymously and each as herein used shall include the followings used articles or used pieces of: iron, scrap metal, automobile bodies or parts of machinery or junked or discarded machinery, used lumber which may be used as a harborage for rats, ashes, garbage, industrial by-products or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels and all other articles customarily considered trash or junk and which are not housed in a building.
- B. The term "Person" as used herein shall include any person, firm or corporation.

Section 2.

It shall be unlawful for any person to accumulate, place, or allow or permit the accumulation or placing of trash or junk on any premises in said Township, except in a sanitary landfill licensed by the State of Michigan or in a junk yard duly licensed by the Township.

Section 3. Penalties.

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense.

Section 4.

Should any section, clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be invalid.

Section 5.

This Ordinance shall be in full force and effect on the 13th day following publication thereof.

Adopted: May 14, 1973

OUTDOOR ASSEMBLY ORDINANCE

(Ord. No. 11, 1973; Amended by Ord. No. 100, 1995)

An ordinance to license, regulate and control, in the interest of the public health, safety and welfare, outdoor gatherings of persons in excess of 1,000 in number, to provide penalties for violations thereof and to repeal all ordinances or parts of ordinances inconsistent therewith.

THE TOWNSHIP OF NELSON ORDAINS:

The Township Board of Nelson Township finds and declares that the interests of the public health, safety and welfare of the citizens of Nelson Township require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in this Township.

Section 1. Name.

This Ordinance shall be known and cited as the Nelson Township Outdoor Assembly Ordinance.

Section 2. Definitions.

- A. "Outdoor Assembly," hereinafter referred to as "assembly" means any event, attended by more than 1,000 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including but not limited to music festivals, rock festivals, peace festivals or similar gatherings, but does not mean:
- (1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;
 - (2) An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, being 26 U.S.C. 501(c)(3), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.201 of the Compiled Laws of 1948; or
 - (3) An event held entirely within the confines of a permanently enclosed and covered structure.
- B. "Person" means any natural person, partnership, corporation, association or organization.
- C. "Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

- D. "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.
- E. "Licensee" means any person to whom a license is issued pursuant to this Ordinance.

Section 3.

A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in Township unless he shall have first made application for, and obtained as hereinafter prescribed, a license for each such assembly.

Section 4. Application for License.

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the clerk of the Township of Nelson and shall be made at least 60 days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of \$100 and shall include at least the following:

- A. The name, age, residence and mailing address of the person making the application. (Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.)
- B. A statement of the kind, character, and type of proposed assembly.
- C. The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.
- D. The date or dates and hours during which the proposed assembly is to be conducted.
- E. An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

Section 5.

Each application shall be accompanied by a detailed explanation, including: drawings and diagrams where applicable, of the prospective licensee's plans to provide for the followings:

- A. Police and fire protection.
- B. Food and water supply and facilities.

- C. Health and sanitation facilities.
- D. Medical facilities and services including emergency vehicles and equipment.
- E. Vehicle access and parking facilities.
- F. Camping and trailer facilities.
- G. Illumination facilities.
- H. Communications facilities.
- I. Noise control and abatement.
- J. Facilities for clean up and waste disposal.
- K. Insurance and bonding arrangements.

In addition, the application shall be accompanied by a map or maps of the overall site of the proposed assembly.

Section 6.

On receipt by the clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the county, the state fire marshal, and to such other appropriate public officials as the clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application and within 20 days of receipt thereof shall report their findings and recommendations to the Township Board.

Section 7.

Within 30 days of the filing of the application, the Township Board shall issue, set conditions prerequisite to the issuance of, or deny, a license. The Township Board may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefor shall be stated in the notice.

Section 8.

A license may be denied if:

- (1) The applicant fails to comply with any or all requirements of this Ordinance, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Section 9.

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this Ordinance. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

Section 10.

In processing an application the Township Board shall, at a minimum require the following:

- A. **Security Personnel.** The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the chief law enforcement officer for the county in cooperation with the Director of State Police is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.
- B. **Water Facilities.** The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water-using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with Act 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the county health officer.
- C. **Restroom Facilities.** The licensee shall provide separate enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law. If such flush-type facilities are available, the county health officer may permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.

The licensee shall provide lavatory and drinking water facilities constructed, installed, and maintained in accordance with Act 266 of the Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.

The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Toilets	1:300	1:200
Urinals	1:100	
Lavatories	1:200	1:200
Drinking Fountains		1:500
Taps of Faucets		1:500

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Shower Heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the county health officer.

- D. **Food Service.** If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.

If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.

- E. **Medical Facilities.** If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be prescribed by the county health officer.

- F. **Liquid Waste Disposal.** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the county health officer. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled, "Manual of Septic Tank Practice." If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective and frequent removal of liquid waste from the premises so as to neither create a nuisance nor menace to the public health.

- G. **Solid Waste Disposal.** The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved covered fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

- H. **Public Bathing Beaches.** The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
- I. **Public Swimming Pools.** The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
- J. **Access and Traffic Control.** The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the Director of the Department of State Police and the Director of the Department of State Highways must approve the licensee's plan for access and traffic control.
- K. **Parking.** The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four attendants.
- L. **Camping and Trailer Parking.** A licensee who permits attendants to remain on the premises between the hours of 2 a.m. and 6 a.m. shall provide for camping and trailer parking and facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law. The provisions of 1970 Act 171 shall be effective and applicable upon the adoption of said ordinance.

- M. **Illumination.** The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plans shall be approved by the Building Inspector.
- N. **Insurance.** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the clerk of Nelson Township in writing at least ten days before the expiration or cancellation of said insurance.
- O. **Bonding.** Before the issuance of a license the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000 in a form to be approved by the Township attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers, and employees and the Township Board against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.
- P. **Fire Protection.** The licensee shall, at his own expense, take adequate steps as determined by the state fire marshal, to insure fire protection.
- Q. Sound producing equipment, including but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of Nelson Township.
- R. **Fencing.** The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
- S. **Communications.** The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.
- T. **Miscellaneous.** Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the Township of Nelson.

Section 11. Revocation.

The Township Board may revoke a license whenever the licensee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

Section 12. Violations.

It shall be unlawful for a licensee, his employee, or agent, to knowingly:

- A. Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a license as herein provided.
- B. Conduct or operate an assembly in such a manner as to create a public or private nuisance.
- C. Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment, or amusement.
- D. Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.
- E. Permit any person to unlawfully consume, sell, or possess intoxicating liquor while on the premises.
- F. Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs or other controlled substances, as defined in part 71 of the Michigan Public Health Code.

Any of the above enumerated violations is a separate offense and is a nuisance per se immediately enjoined in the Circuit Court. Any violation is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the Circuit Court of the assembly.

Section 13. Severability.

If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or

application, provided such remaining portions are not determined by the court to be inoperable, and to this end this Ordinance is declared to be severable.

Section 14. Effective Date.

This Ordinance shall be effective from and after June 23, 1973.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Adopted: May 14, 1973

DISORDERLY CONDUCT ORDINANCE

(Ord. No. 12, 1973, Amended by Ord. No. 12B, 1989)

An ordinance to prohibit disorderly conduct and other miscellaneous offenses.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Definitions.

The term "Public Place" as used in this chapter shall mean any street, alley, park, public building, any place of business or assembly upon to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

Section 2. Acts Prohibited.

No person shall:

- A. Commit an assault, or an assault and battery on any person.
- B. Engage in any disturbance, fight, or quarrel in a public place.
- C. Be drunk in any public place or under the influence of any narcotic drug in any public place.
- D. Engage in any indecent insulting, immoral, or obscene conduct in any public place.
- E. Insult, accost, molest, or otherwise annoy, either by word of mouth, sign or motion, any person in any public place.
- F. Collect or stand in crowds, or arrange, encourage, or abet the collection of persons in crowds for unlawful mischievous purposes in any public place to the annoyance or inconvenience of others.
- G. Jostle or roughly crowd persons in any street, alley, park, or public building.
- H. Loiter on any street or sidewalk or in any park or public building or conduct himself in any public place so as to obstruct the free and uninterrupted passage of the public.
- I. Willfully destroy, remove, damage, alter or in any manner deface any property not his or her own.
- J. Beg in any public place.
- K. Engage in peeping in the windows of any inhabited place.
- L. Swim or bathe in any public place without wearing proper apparel.

- M. Make any immoral exhibition or indecent exposure of his or her person.
- N. Engage in any act of prostitution or gross indecency.
- O. Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.
- P. Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or narcotics, or where any other illegal or immoral business or occupation is permitted or conducted.
- Q. Disturb the public peace by loud, boisterous or vulgar conduct.
- R. Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.
- S. Obstruct, resist, hinder, or oppose any member of the police force, or any police officer in the discharge of his duties as such.
- T. Knowingly furnish to any police officer or other official a false name, false address or false information in connection with any arrest or investigation.
- U. Knowingly make to any police officer a fictitious report of the purported commission of any crime or misdemeanor.
- V. Trespass or unlawfully remain upon the premises of another to the annoyance or disturbance of the lawful occupant or his agent.
- W. Prowl about on the private premises of any other person in the nighttime, without authority or the permission of the owner of such premises.
- X. Wrongfully throw or propel any snowball, missile or object from any moving automobile.
- Y. Wrongfully throw or propel any snowball, missile or object toward any person or automobile.
- Z. Minor in Possession of Alcoholic Liquors: No person under the age of 21 years shall purchase, or knowingly possess or transport any alcoholic liquor, or knowingly possess, transport or have under his control in any motor vehicle any alcoholic liquor unless said person is employed by a license as deferred in Public Act 1952, No, 227, as amended, and is possessing, transporting or having such alcoholic liquor in a motor vehicle under his control during regular working hours and in the course of his employment.

Section 3.

Any person, firm, or corporation who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$500 together with court costs, in the discretion of the court. Each day that such violation occurs shall constitute a separate offense.

Adopted: May 14, 1973

FISCAL YEAR ORDINANCE

(Ord. No. 21, 1979)

An ordinance to establish the fiscal year of the Township of Nelsen, Kent County, Michigan and the annual settlement day for such Township pursuant to Michigan Public Act 596 of 1978.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

Commencing in 1979 the fiscal year of the Township shall extend from April 1 of each year until March 31 of the following year. Any preexisting Township budget lawfully adopted by the Township Board shall be proportionately extend to coincide with the foregoing new fiscal year periods.

Section 2.

The annual settlement day meeting of the Township Board shall hereafter be held on the 15th day of the last month of the fiscal year of the Township unless said day falls on a Saturday, Sunday or legal holiday whereupon said meeting shall be held on the following Monday which is not a legal holiday.

Section 3.

The annual meeting of the electors of the Township where the same has not been abolished shall be held on the last Saturday in the last month of the aforesaid fiscal year at such time and place as is determined by the Township Board.

Section 4.

This Ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted: February 27, 1979

ANIMAL CONTROL ORDINANCE

(Ord. No. 30, 1980; Amended by Ord. No. 105, 1995)

THE TOWNSHIP OF NELSON ORDAINS:

Article I - General

Section 1.

It is deemed by the Township of Nelson that the ownership of an animal is a privilege which carries with it responsibilities to the Township and residents with regard to the care and custody of said animal. It is the intent of this Ordinance to protect the people of Nelson Township from problems caused by unrestrained or annoying animals.

Section 2.

This Ordinance shall be known as, and may be cited and referred to as "The Animal Control Ordinance of Nelson Township."

Section 3.

Any person violating the provisions of this Ordinance is guilty of a misdemeanor punishable by a fine not exceeding \$100 or by imprisonment in the County Correctional Facility for a period not exceeding 90 days, or both such fine and imprisonment.

Section 4.

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Article II - Definitions

Section 1. Definitions.

Whenever, in this Ordinance, the following terms are used they shall have the meaning as described to them in this article, unless it is apparent from the context thereof that some other meaning is intended.

Section 2. Animal.

As used in this Ordinance animal shall mean dog, cat, bird, reptile, mammal, fish or any other dumb creature.

Section 3. Animal Control Officer.

The Animal Control Officer shall mean the agent of the Kent County Department of Animal Control or any other officers designated for such duties by the Township.

Section 4. Animal Shelter.

The Animal Shelter may mean either the Kent County Animal Shelter or the Humane Society of Kent County.

Section 5. Township.

As used in this Ordinance shall mean the Township of Nelson.

Section 6. County.

As used in this Ordinance shall mean the County of Kent.

Section 7. Director.

As used in this Ordinance shall refer to the director of the Kent County Department of Animal Control.

Section 8. Department.

As used in this Ordinance shall refer to the Kent County Department of Animal Control.

Section 9. Impounded.

If any animal pursuant to this Ordinance or any statute has been received into the custody of any animal shelter, such animal will have been “impounded” as that word is used in this Ordinance.

Section 10. Owner.

Owner when applied to the proprietorship of an animal means every person having a right of property in the animal, or every person who keeps or harbors the animal or has it in his care, or every person who permits the animal to remain on or about any premises occupied by him. For the purposes of this act any person keeping or harboring any animal for seven consecutive days shall be deemed the owner thereof within the meaning of this Ordinance.

Section 11. Person.

Includes an individual, partnership, corporation, trust, and any association of persons.

Article III - Dogs

Section 1. Licenses.

All dogs over the age of six months within the Township shall at all times be currently licensed in accordance with the requirements of State Law and of the County Animal Control Ordinance. A license tag issued by the County shall be securely affixed to a collar, harness, or other device which shall be worn by the dog at all times unless the dog is within the

confines of the residence of the owner or of a dog run or other secure enclosure on the owner's premises.

Section 2. Limit on Number of Dogs.

No person shall have within his care, custody or control within the Township more than three dogs other than dogs under six months of age born to a female under the care, custody or control of such person, provided that this provision shall not be construed to require any person to dispose of any licensed dog owned by such person at the effective date of this Ordinance. This limit on the number of dogs shall not apply in townships permitting kennel licenses if such kennel complies with existing County and State Laws.

Section 3. Barking Dogs.

No person owning or having charge, care, custody or control of a dog shall permit such dog at any time, by loud or frequent or habitual barking, yelping or howling, to cause annoyance to people in the neighborhood or to persons utilizing the public walks or streets of the neighborhood.

Section 4. Dogs Running at Large.

No person owning or having charge, care, custody or control of any dog shall cause, permit, or allow the same to run at large or to be upon any highway, street, lane, alley, court, or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of such dog, within the Township, unless such dog is restrained by a substantial chain or leash not exceeding six feet in length and is in the charge, care, custody, or control of a person with the ability to restrain it.

Section 5. Female Dogs in Heat.

No person owning or having charge, care, custody or control of an unspayed female dog shall permit such dog to be or to run at large during the copulative season (i.e., when said dog is in heat as that term is commonly understood) unless such dog shall be restrained as provided in Section 4 above at all times other than when the dog is within the confines of the residence of the owner or of a dog run or other secure enclosure on the owner's premises.

Article IV - Vicious Animals

Section 1.

A vicious animal shall at all times when not securely confined be securely muzzled and led by a leash. Any animal shall be deemed vicious which has bitten a person or domestic animal without molestation, or, which by its actions, gives indications that it is liable to bite any person or domestic animal without molestation.

Section 2. Prosecutions.

On sworn complaint that any one of the following facts exist:

- (1) That any animal has attacked or bitten a person;
- (2) That any animal shows vicious habits or molests passers-by when lawfully on the public highways;

the County may secure a summons against the owner of said animal commanding him to appear and show cause why said animal should not be ordered to be confined or destroyed. Upon such hearing, the District Court shall proceed to determine whether it shows vicious habits or molests passers-by when lawfully on the public highway, and if the Court shall so find, it shall forthwith either order said animal confined to the premises of the owner or shall order the Director of Animal Control to cause said animal to be destroyed or shall enter such other order relative to the care of such animal as the Court shall determine to be appropriate.

Section 3. Civil Liability.

Nothing in this chapter shall be construed as limiting the common law liability of the owner of an animal for damages committed by it.

Section 4. Penalty.

Failure to comply with a stop work order issued by the mechanical official shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provision of the Mechanical Code shall be a municipal civil infraction for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense.

Article V - Optional Section on Kennels

Section 1.

Each person having a kennel shall have a valid kennel license from the Kent County Treasurer.

Section 2.

Each kennel must be inspected and approved by the Kent County Director of Animal Control or his agents on an annual basis.

Section 3.

If dog kennel runs shall be of concrete, they must provide adequate draining for sanitation. If sand or pea gravel is used, droppings must be picked up and disposed of promptly and the

runs treated regularly with an effective disinfectant. Runs made of other materials require special approval from the Director of Animal Control.

Section 4.

If at any time the Township Board determines that it is not in the interest of the community to permit a kennel license, such license may be revoked.

Section 5.

If at any time the Township Board determines it is in the interest of the community to change the conditions of licensure, such conditions may be changed after reasonable notice.

Adopted: _____, 1980

**O&A ELECTRIC COOPERATIVE, INC.
SERVICE FRANCHISE AND ORDINANCE**

(Ord. No. ____, 1986)

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

Permission is hereby granted to O & A Electric Cooperative, Inc., a Michigan non-profit corporation, its successors and assigns, to construct, maintain and operate in the public streets, highways, alleys and other public places in the Township of Nelson, Kent County, Michigan, all needful and proper poles, towers, mains, wires, pipes, conduits and other apparatus requisite for the transmission and distribution of electricity and to transact a local business within said Township subject, however, to all conditions and restrictions hereinafter contained.

Section 2.

The conditions of the foregoing grant are as follows:

- A. The grantee shall do no injury to any street, highway, alley or other public or private place, or in any manner disturb or interfere with any water or gas pipes, or with any public or private sewer, now or hereafter laid or constructed by any authorized person or corporation.
- B. The Board of County Road Commissioners or other proper authority, may in its discretion grant permission for the control of trees when necessary to make the lines safe and accessible.
- C. The said grantee before entering upon any street, highway, alley or other public place for the purpose of erecting and constructing any poles, wires, mains, pipes, conduits or other apparatus, shall in writing notify the Board of County Road Commissioners or the Superintendent of said Board, or other proper authority, of the proposed construction, and obtain approval thereof, and shall, if the said Board so requires, file with it a sufficient plan and specification showing the nature and extent of the proposed erection and construction.
- D. No street, highway, alley or public place shall be allowed to remain encumbered by the construction work of the said grantee for a longer period than shall be necessary to execute the said work, and the Board of County Road Commissioners shall determine the questions of such necessity, and the grantee shall at all times conform to all ordinances of the Township now or hereafter in force relative to the fencing and lighting of obstructions and excavations.
- E. The grantee shall save the Township harmless from any negligence on the part of said grantee and said grantee shall indemnify the Township for any judgment that may be recovered against the Township by reason of the wrongdoing or negligence

of said grantee in the erection and maintenance of said poles, mains, wires and other apparatus or construction.

- F. Said grantee shall make due provision upon 48 hours notice in writing for raising its wires, or otherwise, for the passage of any barn, building or other structure on or over any street, highway, or public place occupied by the mains, wires, poles and apparatus of said grantee.

Section 3.

This Ordinance was approved and adopted by the Nelson Township Board on August 12, 1986. This grant shall take effect, if said grantee shall within 60 days from the date of the passage of this Ordinance, file with the Township Clerk its written acceptance of the terms of said grant and said franchise shall thereafter be favorably acted upon by a majority vote of the registered electors at the November 4, 1986 general election. If not so accepted in writing this Ordinance shall be null and void. This Ordinance shall be effective upon certification of voter approval.

Section 4.

This Franchise and Ordinance shall be and remain in force for 30 years from and after the date of its acceptance, as aforesaid.

Section 5.

Nothing in this grant shall be construed to transfer or alienate the title of the public or any interest of the Township in and to any street, highway, alley or public place or any portion thereof, neither shall anything herein be construed in any manner as a surrender by the Township of its legislative power with respect to the subject matter whatsoever; nor as in any manner limiting the right of the said Township to grant other franchises or to regulate the use of any street, alley, or public place, or any avenue or highway within its jurisdiction.

Adopted: August 12, 1986

CEMETERY RULES ORDINANCE

(Ord. No. _____, 1988)

The Nelson Township Board hereby establishes these rules and regulations for the purpose of insuring quality service in the Township Cemetery and for the mutual protection of lot owners and the Township. All lot owners and visitors within the cemetery shall be subject to these rules and regulations. The Board reserves the right to adopt additional rules or to amend, alter or repeal any rule or regulation or parts thereof at any time. The term Board as used throughout these rules, may also refer to employees or duly authorized representatives of the Board.

THE TOWNSHIP OF NELSON ORDAINS:

Article I - General Rules

Section 1.

No vehicle shall be driven on other than established drives except for maintenance purposes.

Section 2.

Rubbish or debris shall be placed in receptacles provided.

Section 3.

Flowers, trees or shrubs are not to be picked, disturbed or mutilated.

Section 4.

Alcoholic beverages are not to be carried on or consumed on cemetery premises.

Section 5.

No firearm is to be discharged on cemetery property. This prohibition shall not apply to authorized volleys at burial services.

Article II - Lot Ownership

Section 1.

Description of all lots will be in accordance with the Cemetery Plot which is kept on file in the Township Clerk's office.

Section 2.

The Board reserves the right to enlarge, reduce, replot or change the boundaries or grading of the cemetery or a section thereof. The Board reserves to itself and to its employees the rights

of ingress and egress over lots for the purpose of maintenance or of passing to and from other lots.

Section 3.

All sales of cemetery lots shall be handled by the Township Clerk.

Section 4.

All lot sales shall be in accordance with the current price schedule.

Section 5.

The Deed issued by the Board and a copy of these Rules and Regulations shall constitute the agreement between the Board and the lot owner.

Section 6.

It is the responsibility of the lot owner to notify the Board of any change of address.

Section 7.

The Board reserves the right to purchase back lots from the owner who desires to sell at the original purchase price.

Section 8.

No lot shall be used for any other purpose than the burial of the human dead.

Section 9.

No lot shall be sold or transferred to a third party without Board approval.

Section 10.

The Board will take all reasonable precautions to protect lot owners and the property rights of lot owners within the cemetery from loss or danger, but the Board disclaims all responsibility for loss or damage from causes beyond its reasonable control.

Article III - Care of Lots

Section 1.

The general care of the cemetery is assumed by the Board and includes the cutting of grass, at reasonable intervals, the raking and cleaning of the grounds and the pruning of shrubs and trees that may be planted by the Board. Annual cleanup will begin each year in April.

Section 2.

There shall be no individual planting of shrubbery or plants except by permission of the Board.

Section 3.

The Board shall not be responsible for any kinds of individual plantings damaged by the elements, vandals, thieves or by other causes beyond its control.

Section 4.

The Board shall have the authority to remove any or all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as, in the judgment of the Board, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards maintained.

Article IV - Funerals and Interments

Section 1.

The cemetery will be open for interments daily, the year round. There may be additional charges during the winter months if snow removal or ground thawing is required.

Section 2.

No interment shall take place without a burial permit which shall be presented by the funeral director upon arrival at the cemetery.

Section 3.

Funeral directors making arrangements for burials shall be responsible for all interment charges.

Section 4.

No interment of two or more bodies shall be made in one grave except in the case of parent and infant child or two infants buried in one casket. No more than two containers of cremated remains may be buried in one grave.

Section 5.

Lot owners shall not allow interments in their lots in return for remuneration of any kind.

Article V - Disinterments

Section 1.

Disinterments of a body, once properly interred, shall not be made without a properly executed disinterment permit. Graves which must be opened for inspection for any official investigation shall require an order signed by a court of competent jurisdiction.

Article VI - Monuments and Memorials

Section 1.

All plans, specifications and locations of markers or memorials are subject to approval of the Board.

Section 2.

For the best interest of lot owners, memorials of cement, artificial stone, composition, wood, tin or iron are not permitted.

Section 3.

No walls or copings are permitted and lots shall be maintained at grade level.

Section 4.

All memorials shall have a foundation which extends at least four inches on all sides of the stone.

Section 5.

Should any monument or memorial become unsightly, dilapidated or a safety hazard, the Board shall have the right, at the expense of the owner, to correct the condition or remove the same.

Article VII - Correction of Errors

Section 1.

The Board shall have the right to correct errors which may be made, either in making interments or disinterments, or in the description, transfer or conveyance of any property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as near as possible, or by refunding the amount of money paid on account of that purchase. In the event the error shall involve the interment of remains of any person in such property, the Board shall have the right to remove and reinter in such other property of equal value and similar location as may be substituted and conveyed by the Board.

Adopted: December 13, 1988

MICHIGAN CONSOLIDATED GAS COMPANY ORDINANCE

(Ord. No. 94, 1995)

An ordinance granting to Michigan Consolidated Gas Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places in the Township of Nelson, Kent County, Michigan, and to do a local gas business in the Township of Nelson, Kent County, Michigan, for a period of 30 years.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Grant of Gas Franchise and Consent to Laying of Pipes, etc.

Subject to all the terms and conditions mentioned in this Ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Township of Nelson, Kent County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said Township of Nelson, for the purposes of conveying gas into and through and supplying and selling gas in said Township of Nelson and all other matters incidental thereto.

Section 2. Installation and Extension of System.

If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then the Company shall furnish gas to applicants residing therein in accordance with, applicable laws, rules and regulations; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

Section 3. Use of Streets and Other Public Places.

The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Township of Nelson and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said Charter Township for all damages and costs which may be recovered against said Township of Nelson arising from the default, carelessness, or negligence of the Company or its officers, agents and servants.

No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Township Board of the Township of Nelson, or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Township Board, or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed, so long as the same may lawfully be carried out by the Company.

Section 4. Standards and Conditions of Service; Rules, Regulations and Rates.

The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the Township of Nelson, under the orders, rules, and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.

Section 5. Successors and Assigns.

The words "Michigan Consolidated Gas Company" and "the Company," wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

Section 6. Effective Date; Term of Franchise Ordinance; Acceptance by Company; Franchise not Exclusive.

This Ordinance shall take effect the day following the date of publication thereof, which publication shall be made within 30 days after the date of its adoption, and shall continue in effect for a period of 30 years thereafter, subject to revocation at the will of the Township of Nelson at any time during said 30 year period; provided, however, that when this Ordinance shall become effective, the Township Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, 60 days after receiving the documents from the Clerk, file with the Township Clerk its written acceptance of the conditions and provisions hereof. The rights, power and authority granted to the Company by this Ordinance are not exclusive.

Section 7. Effect and Interpretation of Ordinance.

All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Ordinance are hereby rescinded. In the case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control. This Ordinance shall, as of its effective date, supersede and replace Township of Nelson Ordinance No. 4, adopted May 20, 1965. The catch line headings which precede each section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Ordinance.

Adopted: March 21, 1995

CIVIL INFRACTIONS ORDINANCE

(Ord. No. 106, 1995)

An ordinance to provide for the issuance of citations for civil infractions and to provide the procedure therefore.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Township Supervisor/Zoning Administrator.

The Township Supervisor and Zoning Administrator are each authorized to issue citations for violation of any Township ordinance which is designated to be a municipal civil infraction, if said officer has reasonable cause to believe an infraction has occurred, based upon either personal observation or the report of a person who has allegedly witnessed said infraction. If the citation is to be issued solely on the basis of a report made by a witness, the Township attorney must give prior written approval for the issuance of the citation.

Section 2. Building Officials.

The Township building officials are authorized to issue citations for civil infractions for violations of those building codes which that official is responsible for administering and enforcing if the Official has reasonable cause to believe an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed said infraction. If the citation is to be issued solely on the basis of a report made by a witness, the Township attorney must give prior written approval for the issuance of the citations.

Section 3. Form of Citations.

Civil infraction citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's office.

Section 4. Service.

Civil infraction citations shall be served upon the alleged violator as provided by law.

Section 5. Appearance.

Civil infraction citations shall require appearance at the District Court within a reasonable time after the citation has been issued.

Section 6. Procedure.

The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all other matters related to processing of citations for civil infractions shall be as provided by law.

Section 7. Appearance Tickets.

The issuance of appearance tickets, pursuant to Act 175 of the Public Acts of Michigan of 1927, as amended, for those violations of Township ordinance which have been designated to be misdemeanors, is hereby authorized as follows:

- (1) The Township Supervisor may issue an appearance ticket if the supervisor has reasonable cause to believe that a person has violated any Township ordinance.
- (2) The Township building officials may issue an appearance ticket if that official has reasonable cause to believe that a person has violated a Township building code for which such official is responsible for enforcement.

Section 8. Repeal.

Ordinance No. 32, "Ordinance Enforcement Officer Ordinance," is hereby repealed.

Section 9. Publication/Effective Date.

This Ordinance shall take effect 30 days following publication of this Ordinance, or a summary thereof, as provided by law.

Adopted: August 8, 1995

CONSUMERS POWER COMPANY ELECTRIC FRANCHISE ORDINANCE

(Ord. No. 109, 1996)

An ordinance, granting to Consumers Power Company, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the Township of Nelson, Kent County, Michigan, for a period of 30 years.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Grant, Term.

The Township of Nelson, Kent County, Michigan, hereby grants the right, power and authority to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the Township of Nelson, Kent County, Michigan, for a period of 30 years.

Section 2. Consideration.

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

Section 3. Conditions.

All of Grantee's towers, masts and poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys bridges and waterways, as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets and alleys shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good condition as when work was commenced. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

Section 4. Hold Harmless.

Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the careless, improper or negligent construction and maintenance of the structures hereby authorized. In case any action is

commenced against the Township on account of the permission herein granted, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost and damage arising out of such careless, improper or negligent construction and maintenance.

Section 5. Rates.

Said Grantee shall be entitled to charge the inhabitants of said Township for electric energy furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Township, acting by its Township Board, or by said Grantee.

Section 6. Franchise Not Exclusive.

The rights, power and authority herein granted, are not exclusive.

Section 7. Revocation.

The franchise granted by this Ordinance is subject to revocation upon 60 days written notice by the party desiring such revocation.

Section 8. Michigan Public Service Commission, Jurisdiction.

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

Section 9. Effective Date.

This Ordinance shall take effect upon the day after the date of publication thereof, provided, it shall cease and be of no effect after 30 days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this Ordinance shall constitute a contract between said Township and said Grantee.

Adopted: February 13, 1996

HAZARDOUS MATERIAL ORDINANCE

(Ord. No. 110, 1996)

An ordinance to establish charges for Township emergency services responding to an incident involving hazardous material un Public Act 102 of 1990 (Compiled Law 41.806a) and to provide methods for collection of such charges.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Purpose.

In order to protect the Township of Nelson from incurring extraordinary expenses resulting from the utilization of Nelson Township resources to respond to an incident involving hazardous materials, the Nelson Township Board authorizes the imposition of charges to recover reasonable and actual cost incurred by the Nelson Township in responding to calls for assistance in connection with a hazardous materials release.

Section 2. Hazardous Materials Defined.

For purpose of the ordinance, “hazardous materials” include, but are not limited to a chemical that is a combustible liquid, a flammable gas, explosive, flammable an organic peroxide, and oxidizer, pyrophoric, unstable reactive of water reactive.

Section 3. Releases Defined.

Any spilling, leaking, pumping, pouring, emitting, emptying, discharge, injecting, leaching, dumping or disposing into the environment.

Section 4. Responsible Party Defined.

Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity of and other legal entity that is responsible for the release of hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous material release.

Section 5. Charges Imposed Upon Responsible Party.

Where the fire departments responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the fire departments responding to such a call shall be imposed upon responsible parties, including, but not limited to:

- A. One Hundred Twenty Five Dollars per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

- B. Seventy Five Dollars per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to hazardous materials incident.
- C. Seventy Five Dollars per hour, or fraction thereof, for each additional Township-owned fire department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.
- D. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incident. Such cost may include, but not limited to, wages, salaries and fringe and insurance for full-time and part-time fire fighters: overtime pay and related fringe benefit costs for hourly employees and fire run fee paid to on-call fire fighter. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident, and shall continue until all fire department personnel have concluded hazardous materials incident-related responsibilities.
- E. Other expenses incurred by Nelson Township in responding to the hazardous material's incident, including, but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals refreshments for personnel while responding to the hazardous materials incident.
- F. Charges to Nelson Township imposed by local, state or federal government entities related to the hazardous materials incident.
- G. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

Section 6. Billing Procedures.

Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expense to the Township, village or city treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within 30 days of receipt of the bill. Any additional expenses that become known to the fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after the 30 days, the Township shall impose a late charge of one 1 percent per month, or fraction thereof.

Section 7. Other Remedies.

Nelson Township may pursue any other remedy, or may institute any appropriate action of proceeding, in a court of competent jurisdiction to collect charges imposed under this ordinance. The recovery of charges imposed under this Ordinance does not limit liability of responsible parties under local ordinance of state or federal law, rule or regulation.

Section 8. Severability.

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not effect the validity of enforceability of the balance of this Ordinance which shall remain in full force and effect.

Section 9. Township Fire Areas.

The Nelson Township may contract sections, areas or other types of dividing up the Township with other municipal government fire departments, townships, departments, city of villages, etc. All expenses incurred by the other fire departments responding to the hazardous materials incident in Nelson Township are covered as if the fire department was a Nelson Township department.

The following is a list, but not limited to, departments assigned to provide fire protection in Nelson Township:

City of Cedar Springs Fire Department

Village of Sand Lake Fire Department

Spencer Township Fire Department

Section 10. Effective Date.

This Ordinance shall take effect immediately. All ordinances in conflict are hereby repealed.

Adopted: February 13, 1996

LAND DIVISION ORDINANCE

(Ord. No. 120, 1997; Amended by Ord. No. 121, 1997)

An ordinance to regulate the division of parcels or tracts of land in order to carry out the provisions of Michigan Public Act 288 of 1967, as amended, being the Land Division Act; to establish minimum requirements and procedures for the approval of such land divisions and to prescribe penalties for the violation of this Ordinance.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Title and Purpose.

- 1.1 This Ordinance shall be known and may be cited as the Nelson Township Land Division Ordinance.
- 1.2 The purpose of this Ordinance is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the "Act") in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.
- 1.3 This Ordinance shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

Section 2. Definitions.

Certain words and phrases used in this Ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

- 2.1 "Administrator" means the Township assessor.
- 2.2 "Division" or "land division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent (as defined in the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.
- 2.3 "Exempt split" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal

representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent.

- 2.4 “Parcel” means a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- 2.5 “Parent parcel” or “parent tract” means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- 2.6 “Private road” means a private road which complies with the requirements of the Township zoning ordinance.
- 2.7 “Road authority” means the governmental authority having jurisdiction of a public road or public street.
- 2.8 “Resulting parcel(s)” means one or more parcels which result from a land division.
- 2.9 “Tract” means two or more parcels that share a common property line and are under the same ownership

Section 3. Land Division Approval Required.

Any division of land, including any partitioning or splitting of land, within the Township which requires the approval of the Township in order to qualify as a land division under the Act shall satisfy the requirements of Sections 4, 5 and 7 and the other applicable provisions of this Ordinance.

Section 4. Application for Land Division Approval.

- 4.1. A proposed land division shall be filed with the Administrator and shall include the following:
 - (a) A completed application, on such written form as the Township may provide, including any exhibits described therein.
 - (b) Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land.
 - (c) A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
 - (d) A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.

- (e) A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to scale. A tentative parcel map shall include:
 - (1) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map.
 - (2) Proposed boundary lines and the dimensions of each parcel.
 - (3) An adequate and accurate legal description of each resulting parcel.
 - (4) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions.
 - (5) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets.
 - (6) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - (7) If a resulting parcel is a development site (as defined in the Act), the location of all public utility easements serving the parcel.
- (f) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
- (g) Payment of the application fee and other applicable fees and charges established by resolution of the Township Board.

4.2. A proposed division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.2 commence, until all of the requirements for an application for land division approval have been complied with.

Section 5. Minimum Requirements for Approval of Land Divisions.

5.1 A proposed land division shall be approved by the Administrator upon satisfaction of all of the following requirements:

- (a) The application requirements of Section 4.
- (b) All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the

Township zoning ordinance for the zoning district(s) in which the resulting parcels are located.

- (c) Each resulting parcel shall have the depth to width ratio specified by the Township zoning ordinance for the zoning district(s) in which the resulting parcel is located. If the Township zoning ordinance does not specify a depth to width ratio, each resulting parcel which is ten acres or less in area shall have a depth which is not more than four times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township zoning ordinance for the measuring of the minimum width and maximum depth of parcels.
- (d) Each resulting parcel shall have a means of vehicular access to an existing street from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street.
- (e) The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
- (f) Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

- 5.2 The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the Administrator, and shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for the disapproval.
- 5.3 Any notice of approval of a division resulting in a parcel less than one acre in size shall contain a statement that the Township, its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in Section 109(a) of the Act, including requirements regarding suitability of on-site water supply and on-site sewage disposal, as described in Section 105(g) of the Act.
- 5.4 An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least ten days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.
- 5.5 The Administrator shall maintain a record of all land divisions approved by the Township.

Section 6. Exempt Splits and Other Divisions not Subject to Approval.

- 6.1 An exempt split is not subject to approval by the Township if all resulting parcels are accessible (as defined in the Act) or if either Section 6.3(a) and 6.3(b) of this Ordinance applies.
- 6.2 The Township shall not permit the creation of an exempt split if one or more of the resulting parcels are not accessible unless either Section 6.3(a) or 6.3(b) of this Ordinance applies to all such inaccessible parcels.
- 6.3 An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval by the Township if the parcel or tract is not accessible and either of the following applies:
 - (a) The parcel or tract was in existence on March 31, 1997.
 - (b) The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Act.

Section 7. Approval of Land Divisions.

- 7.1 A decision approving a land division shall be effective for not more than 90 days after such approval by the Administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 90-day period:
 - (a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s), shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
 - (b) A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph (a) nor paragraph (b) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 90th day following such approval by the Administrator or, if appealed, by the Township Board.

- 7.2 All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 7.1 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this Ordinance. Such documents shall be maintained by the Administrator in the Township record of the approved land division.

- 7.3 The approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations.
- 7.4 Any parcel created inconsistent with or in violation of this Ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

Section 8. Penalties and Other Remedies.

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not more than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this Ordinance committed by the same person or party within one year after a previous violation of the same provision of this Ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

Section 9. Severability.

The provisions of this Ordinance are severable and if any provision or other part hereof is determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this Ordinance.

Section 10. Effective Date.

This Ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

Adopted: _____, 1997

CONSTRUCTION BOARD OF APPEALS

(Ord. No. 122, 1998)

An ordinance to establish the Township Construction Board of Appeals, to establish the number of members of the Board of Appeals, and to establish the terms of such member.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1.

The Township of Nelson Construction Board of Appeals, as referenced in Section 121.1 of the Township Building Code, is hereby established.

Section 2.

The Construction Board of Appeals shall consist of three members, appointed by the Township Board. Members of such Board shall be appointed for two-year terms and until their successors are appointed and qualified. The commencement of the terms of the members first appointed to the Board of Appeals may be as determined by resolution of the Township Board, so as to cause such commencement date to coincide with the commencement dates of the terms of other Township Boards and commissions.

Section 3.

A member of the Board of Appeals shall be qualified for such position by reason of experience or training in the performance of duties of members of the Board of Appeals. A member may be a resident of a municipality other than Nelson Township, if such member is also a member of the Construction Board of Appeals of another municipality.

Section 4.

The Construction Board of Appeals shall have such powers and shall exercise such authority as are provided in the State Construction Code, Act No. 230 of the Public Acts of 1972 as amended, and other applicable laws and ordinances.

Section 5.

This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation.

Adopted: _____, 1998

WIRELESS COMMUNICATION FACILITIES

(Ord. No. 127, 1999)

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Definitions.

- A. A wireless communication facility shall be defined as an antenna used for the transmission and/or reception of signals for radio, television, cellular telephone, microwave, enhanced mobile radio, personal communication, pagers and similar devices. A wireless communication facility shall not be deemed to be essential public services as that term is used in this zoning ordinance.
- B. A wireless communication facility support structure shall be a lattice framework or monopole tower or any existing structure suitable for the support of wireless communication facilities, but excluding structures with a total height of less than 30 feet.
- C. Attached wireless communications facilities shall be wireless communication facilities proposed to be attached to an existing structure.

Section 2. Principal Permitted Use.

In the following circumstances, a proposal to establish a new wireless communication facility and wireless communication facility support structure shall be deemed a principal permitted use, subject to site plan and the conditions set forth in paragraph 4 below (except subparagraph C thereof), and if approved, constructed and maintained in accordance with the standards and conditions of this section.

- A. Attached wireless communication facilities within all C and I Districts only, where the existing structure is not, in the determination of the Planning Commission, proposed to be either materially altered or materially changed in appearance.
- B. Co-location of a new attached wireless communication facility which has been previously approved for such co-location as part of an earlier approval by the Planning Commission.
- C. Attached wireless communication facilities consisting of a utility pole located within a public right-of-way, where the existing pole is not proposed to be modified in a manner which, in the determination of the Planning Commission, would materially alter the structure, result in an impairment of sight lines or other safety interests or detract from the aesthetic appearance of the site.
- D. Monopole wireless communication facility support structures and wireless communication facilities in all C and I Districts only.

Section 3. Special Use Approval.

If it is demonstrated to the satisfaction of the Planning Commission by an applicant that a wireless communication facility and/or wireless communication facility support structure may not reasonably be established as a principal permitted use under paragraph 2 above and is required to be established outside of a district identified in paragraph 2 in order to operate a wireless communication service, then wireless communication facilities or wireless communication facility support structures may be permitted elsewhere in the Township by special use approval only subject to the requirements set forth in paragraph 4, and subject further to the special approval procedures of Chapter 19; and if approved, constructed and maintained in accordance with the standards and conditions of this section, and also subject to the following criteria and standards:

- A. At the time of the submittal, the applicant shall demonstrate that a location within an allowable district or within an adjoining jurisdiction cannot reasonably meet the coverage and/or capacity needs of the applicant.
- B. Proposed wireless communication facility support structures shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the Planning Commission, and shall comply with the co-location requirements of paragraph 5.F of this section.
- C. In AG/RE, SFR-L, SFR-M, M-H, NR and OS-PUD Districts, site locations shall be permitted on the following types of sites, in the following priority order, subject to application of all other standards contained with this section; provided, however, that no such facility shall be permitted on a lower priority site unless all potential higher priority sites have been explored and determined to be unacceptable.
 - (1) Municipally owned sites.
 - (2) Other governmentally owned sites.
 - (3) Religious or other institutional sites.
 - (4) Public parks and other large permanent open space areas when compatible.
 - (5) Public or private school sites.
 - (6) Other sites.

Section 4. Application and Review Requirements.

All applications for wireless communication facilities and wireless communication facility support structures shall be reviewed in accordance with the district regulations of the zoning district in which they are located and the following standards and conditions, and if approved, shall be constructed and maintained in accordance with such standards and conditions. In the event of a conflict between the district regulations of the zoning district

and the provisions of this section, the more stringent standard shall apply. In addition, if a facility is approved pursuant to subparagraph (3) of this section, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission at its discretion.

A. Application Requirements.

- (1) All applications for the required permit to place, construct or modify any part or component of a wireless communication facility or wireless communication facility support structure or for special land use approval for said facilities shall include the following:
 - (a) A site plan prepared, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - (b) The existing form of technology being used and any changes proposed to that technology.
 - (c) As applicable, the planned or proposed and existing service area of the facility and the attached wireless communication facility, and wireless communication facility support structure height and type, and signal power expressed in ERP upon which the service area has been planned.
 - (d) The nature and extent of the applicant/provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
 - (e) The identity and address of all owners and other persons with a real property interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
 - (f) A certification by a registered professional engineer licensed in the State of Michigan regarding the manner in which the proposed structure will fall, in the event of structural failure due to any cause. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining appropriate setbacks to be required for the structure and other facilities.
 - (g) A description of the security to be posted at the time of receiving a building permit for the wireless telecommunication support structure to ensure removal of the structure when it has been abandoned or is no longer needed as provided in paragraph 5.H. below. The security shall, at the election of the Township, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the

Township Attorney and recordable at the office of the Kent County Register of Deeds, a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for payment of any costs and attorney's fees incurred by the Township in securing removal.

- (h) The site plan shall include a landscape plan in the event the wireless communication facility support structure is being placed at a location which is not otherwise part of another site plan with landscaping requirements. The purpose of landscaping is to provide screening for the wireless communication facility support structure base, accessory buildings and enclosures. In all cases there shall be fencing six feet in height, which is required for the protection of the tower fully enclosing the wireless communication facility support structure and any accessory structure provided with a locked gate.
 - (i) Evidence of site plan approval from the Federal Aviation Administration, if required due to a site's proximity to any local airport, or evidence that such approval is not required.
 - (j) A maintenance plan, and any applicable maintenance agreement, shall be presented as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
 - (k) The name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- (2) For applications submitted pursuant to paragraph 3 of this section, the following material and information shall be provided in addition to the information required under subparagraph (1) above:
- (a) A disclosure of what is proposed, demonstrating the need for the proposed wireless communication facility support structure to be located as proposed based upon the presence of one or more of the following factors:
 - (i) Proximity to an interstate highway or major thoroughfare.
 - (ii) Areas of population concentration.
 - (iii) Concentration of commercial, industrial and/or other business centers.

- (iv) Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
 - (v) Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate.
 - (vi) Other specifically identified reason(s) creating need for the facility.
- (b) The reason or purpose for the placement, construction or modification with specific reference to the provider's coverage, capacity and/or quality needs, goals and objectives.
- (c) A map showing existing and known proposed wireless communication facilities and wireless communication facility support structures within Nelson Township and adjoining jurisdictions. The map shall also show existing buildings and/or other structures of the same approximate height as the proposed wireless communication facility support structure within a one-half mile radius of the proposed site which could accommodate a feasible co-location of the applicant's proposed attached wireless communication facility. To the extent the information required is on file with the Township, the applicant shall be required only to update as needed.
- (d) For each location identified in the maps required under paragraph 4.A(2)(c) of this section, the application shall include the following information, if known, with the applicant/provider expected to exercise reasonable due diligence in attempting to obtain information through lawful means prior to application:
- (i) The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
 - (ii) Whether property owner approvals exist or have been requested and obtained.
 - (iii) Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility, or if not, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing wireless communication services.

B. Review Standards - All Applications. All applications for wireless communication facilities and wireless communication facility support structures shall be meet the following standards.

- (1) The wireless communication facility support structure shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.
- (2) The maximum height of all new or modified attached wireless communication facilities and wireless communication facility support structures shall be 175 feet, or such lower maximum heights as approved and/or allowed by the Federal Aviation Administration under CFR 14 Part 77. The accessory building contemplated to enclose such things as switching equipment shall be limited to the lesser of the maximum height for accessory structures within the respective district, or 12 feet. The floor area of any accessory building shall be limited to no more than 300 square feet. The Planning Commission may impose requirements relating to the color and nature of the exterior surface of the accessory building and the roof thereof, so as to cause the building to be reasonably compatible with other buildings in the vicinity.
- (3) For a wireless communication facility support structure which is designed to collapse on itself in the event of structural failure, the setback from any lot line shall be the greater of the fall zone for the structure as certified by a professional engineer licensed to practice in Michigan, or the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the monopole is located. The setback of all other wireless communication facility support structures from any lot line shall be no less than the height of the structure, unless it can be demonstrated and certified by a registered professional engineer, to the satisfaction of the Township Engineer, that the wireless communication facility support structure has a lesser fall-zone distance.
- (4) Where the wireless communication facility support structure abuts a parcel of land zoned for residential purposes, the Planning Commission may require a greater setback along the portion of the site which abuts said residential property than that provided in the schedule of regulations for the zoning district in which the wireless communication facility support structure is located, if, in the judgment of the Planning Commission, the use of the minimum required setback distance shall constitute a detriment to persons and property on the adjoining parcel.
- (5) There shall be an unobstructed access to the wireless communication facility support structure for operation, maintenance, repair and inspection purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: The location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication facility support structure and any attendant facilities; the location of buildings and parking facilities; proximity to

residential districts; minimization of disturbance to the natural vegetation; and the type of equipment which will need to access the site.

C. **Review Standards - Special Approval Standards.** In addition to meeting the standards set forth in subparagraph 4.B of this section and Chapter 19 of this Ordinance, all applications for wireless communication facilities and wireless communication facility support structures submitted pursuant to paragraph 3 of this section shall meet the following standards.

- (1) The wireless communication facility support structure shall not, in the judgment of the Planning Commission, constitute a detriment to any persons, property or the general welfare.
- (2) A proposal for a new wireless communication facility support structure submitted pursuant to paragraph 3 of this section, shall not be approved unless and until it can be documented by the applicant that the communications equipment planned for the proposed wireless communication facility support structure cannot be feasibly co-located and accommodated on an existing or approved wireless communication facility support structure or other existing structure due to one or more of the following reasons :
 - (a) The planned equipment would exceed the structural capacity of the existing or approved wireless communication facility support structure or building, as documented by a qualified and licensed professional engineer, and the existing or approved wireless communication facility support structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment.
 - (b) The planned equipment would cause interference materially impacting the usability of other existing or imminently planned equipment at the wireless communication facility support structure or other existing structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented by any other means.
 - (c) Existing or approved wireless communication facility support structures and buildings within a one-half mile radius of the proposed site cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
 - (d) Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing wireless communication facility support structure or building.

- (3) Co-location shall be deemed to be “feasible” for the purposes of this section where all of the following are met:
 - (a) The applicant under consideration for co-location shall undertake to pay market rent or other market compensation for co-location.
 - (b) The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - (c) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennae, and the like.
 - (d) The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained within this subsection.

Section 5. General Requirements.

- A. The division of property for the purposes of locating a wireless communication facility support structure is prohibited unless all zoning requirements and conditions are met.
- B. The Zoning Board of Appeals may grant variances only for (1) the setback requirements of a wireless communication facility support structure, provided that the proposed location will reduce its visual impact on the surrounding area; (2) the maximum height requirement; and (3) the co-location requirements of subparagraph 5.F. Such jurisdiction to consider such variances shall extend only to wireless communication facility support structures qualifying as permitted uses in the C or I Districts.
- C. Where a wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that an accessory building conforms with all district requirements for accessory buildings, including yard setbacks and building height.
- D. The Planning Commission shall, with respect to the color of the wireless communication facility support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility, the wireless

communication facility support structure and the property surrounding such facilities in a neat and orderly condition.

- E. Wireless communication facility support structures shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- F. If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of Nelson Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

Any proposed commercial wireless communication facility support structures shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's attached wireless communication facility and a minimum of two comparable attached wireless communication facilities for additional users. Wireless communication facility support structures must be designed to allow for future rearrangement of attached wireless communication facilities upon the wireless communication facility support structure and to accept attached wireless communication facilities mounted at varying heights.

- G. If a party who owns and/or otherwise controls a wireless telecommunication support structure approved pursuant to this section shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such failure or refusal shall be deemed a violation of this zoning ordinance, subject to the penalties provided in Chapter 21 of this Ordinance.
- H. When a wireless communications facility has not been used for 180 days or more, or six months after new technology is reasonably available in the West Michigan area which permits the operation of a wireless communication facility without the requirement of a wireless communication facility support structure, the entire wireless communications facility, that portion of the wireless communications facility or wireless communication facility support structure made obsolete by the new technology, shall be removed by the users and/or owners of the wireless communications facility. For the purposes of this section, the removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - (1) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any

required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless communications facility.

(2) If the required removal of the wireless communications facility, a wireless communication facility support structure, or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Township may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the wireless communications facility.

- I. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- J. No part of the wireless communication facility or wireless communication facility support structure shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands. No wireless communication facility or wireless communication facility support structure shall be lighted, unless required by the Federal Aviation Administration or the Federal Communication Commission.
- K. If, in considering the application, the Planning Commission determines that it is appropriate to obtain the services of a communications consultant and/or structural engineer, all reasonable costs and expenses thereof shall be paid by the applicant. Failure to pay such costs and expenses, or to provide information reasonably requested by the Planning Commission, shall be grounds for the withholding of the issuance of any and all approvals under this Ordinance.

Adopted: August 10, 1999

OPEN BURNING ORDINANCE

(Ord. No. 135, 2001)

An ordinance to adopt an open burning ordinance, to provide penalties for the violations thereof, to establish charges for the Township's expenses incurred in responding to unlawful outdoor burning, and to provide methods for the collection of such charges.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Purpose.

Unregulated open burning poses a risk to the health, safety and welfare of the residents of Nelson Township. Open burning is a fire risk and may create hazardous by-products that can irritate eyes and lungs, obscure visibility, create odors and pose other health threats. This Ordinance is intended to reduce the adverse and potentially dangerous effect of unregulated open burning throughout the Township.

Section 2. Definitions.

- A. "Department having jurisdiction" shall refer to the fire department providing fire protection services to Nelson Township, by contract or otherwise, in an area where open burning is proposed, is occurring or has occurred.
- B. "Fire chief" shall refer to the duly appointed fire chief of the department having jurisdiction.
- C. "Open burning" means any burning of any flammable material that is not done within a structure or building.

Section 3. Prohibition on Open Burning, Except by Permit.

The open burning of any material other than brush, wood or wood products is prohibited. The open burning of brush, wood or wood products (including leaves and grass clippings) shall only be conducted provided all of the following conditions are satisfied:

- A. An open burning permit is obtained from the department having jurisdiction.
- B. The open burning is conducted in accordance with all applicable state laws, including the Air Pollution Control Act (Act 348 of Public Acts of 1965), the Forest Fire Act (Act 329 of 1969), and the Solid Waste Management Act (Act 641 of 1978; Act 267 of 1990).
- C. The open burning is performed under the constant supervision of a responsible person, who must be 18 years of age or older.
- D. Open burning shall be permitted only between the hours of 8:00 a.m. and 8:00 p.m.

- E. No open burning may take place within 25 feet of any building or other structure.
- F. No open burning shall take place within 1,400 feet of the boundaries of an incorporated city or village.

Section 4. Consideration of Open Burning Permit.

- A. The fire chief, or an individual delegated the responsibility to issue open burning permits from the fire chief (the “delegate”), may impose reasonable conditions prior to granting approval for an open burning permit, including conditions relating to the time, location, duration, manner of burning and the quantity of material to be burned.
- B. Before issuing a permit, the fire chief or delegate shall take into consideration the physical characteristics of the land on which the fire is to be located, the weather conditions on the date of burning, the extent of possible air pollution, the number of permits already issued, the proximity of the proposed fire to any structure, whether the applicant has the necessary equipment to control the open burning, and other factors which may affect the health, safety and welfare of the residents of Nelson Township.
- C. The fire chief or delegate may withdraw approval of a permit if open burning would be unsafe due to the particular circumstances of a request, including, but not limited to, unfavorable weather conditions. The fire chief or delegate may request verification of ownership, control or leasing of the property on which the open burning is to take place. An open burning permit shall not be valid for more than four days after issuance.

Section 5. Exception for Fire Department Training Purposes.

The ordinance shall not apply to fires approved by the fire chief for the purpose of training firefighters.

Section 6. Exception for Recreational Fires.

This Ordinance shall not apply to open burning of wood, charcoal briquettes or similar materials in a fire used for cooking or recreational purposes, but only if the fire is no larger than three feet by three feet, has flames no taller than three feet, is attended at all times by a responsible adult over 18 years of age, and is extinguished immediately after use.

Section 7. Exception for Residential Waste.

This Ordinance shall not apply to burning barrels used for the burning of residential waste so long as the barrel is constructed of metal or masonry, and has a metal cover with holes no larger than three-quarters inch wide.

Section 8. Exception for Beekeeping Equipment.

This Ordinance shall not apply to the open burning of bee keeping equipment and products, including frames, hive bodies, hive covers, combs, wax and honey, when burned for bee disease control.

Section 9. Exception for Agricultural Burning.

This Ordinance shall not apply to the agricultural burning of brush, trees and crop fields on farms when performed in accordance with generally accepted agricultural and management practices (“GAAMPS”). Prior to conducting such burning, the person intending to conduct agricultural burning must advise the Department having jurisdiction of the time, location and material to be burned. Such agricultural burning shall be limited only to brush, trees and crops originating on the property where the burning is to take place.

Section 10. Imposition of Charges.

Where a department having jurisdiction or other parties or agencies of the Township government take action in connection with open burning conducted in violation of this Ordinance or in violation of a open burning permit issued pursuant to this Ordinance, whether in response to a call for assistance or otherwise, the actual costs incurred by the Township in taking such action, and all actual costs relating thereto or arising therefrom, shall be imposed upon the responsible parties, whether jointly or severally, including but not limited to the following:

- A. One Hundred Twenty Five Dollars per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to be utilized in responding to the open burning incident.
- B. Seventy Five Dollars per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the open burning incident.
- C. Seventy Five Dollars per hour, or fraction thereof, for each additional fire department vehicle required, in the opinion of the officer in command, to be utilized in responding to the open burning incident.
- D. All personnel-related costs incurred by the Township as a result of responding to the open burning incident. Such costs may include, but are not limited to, wages, salaries, and fringe benefits and insurance for full-time and part-time firefighters; overtime pay and related fringe benefit costs for hourly employees and fire-run fees paid to on-call firefighters. Such personnel-related charges shall commence after the first hour that the department having jurisdiction has responded to the open burning incident, and shall continue until all firefighting personnel have concluded open burning incident-related responsibilities.
- E. Other expenses incurred by the Township in responding to the open burning incident, including but not limited to rental or purchase of machinery, equipment, labor,

consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the open burning incident.

- F. Charges to the Township imposed by any local, state or federal government entities related to the open burning incident.
- G. Costs incurred in accounting for all open burning incident-related expenditures, including billing and collection costs.

Section 11. Billing Procedures.

Following the conclusion of an open burning incident, or at any other appropriate time, the fire chief shall submit a detailed listing of all known costs and expenses relating to or arising out of the incident to the Township treasurer, who shall prepare an invoice directed to the responsible party or parties, demanding payment in full for all of such costs and expenses. The invoice shall demand payment within 30 days of the receipt of the invoice. Any additional costs and expenses that become known to the fire chief following the transmittal of the invoice shall be billed in the same manner upon subsequent invoices to the responsible party or parties. For any such amounts that remain unpaid after 30 days from the date of any invoices, the Township shall impose a late charge of one percent per month or fraction thereof, though in the discretion of the Township Board, such late charge or any part thereof may be waived for good cause shown.

Section 12. Other Remedies.

The Township may pursue any other remedy or may commence any appropriate action or proceeding in any court or before any administrative agency, toward the collection of the charges imposed under this Ordinance. The recovery of any such charges shall not limit the liability of the responsible parties under local ordinance or other laws, rules or regulations. In addition, the Township may commence and pursue municipal civil infraction proceedings against the responsible parties as defined herein, to the extent permitted by law. A violation of this Ordinance or violation of a permit issued pursuant to this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50, nor more than \$250 for the first offense, and not less than \$100, or more than \$500 for subsequent offenses, in the discretion of the court, in addition to all other costs, damages and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of this Ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible.

Section 13. Severability.

Should any portion of this Ordinance be declared invalid, the remaining portions shall remain in full force and effect.

Section 14. Effective Date.

This Ordinance shall become effective 30 days after publication or 30 days after publication of a summary of its provisions in a local newspaper of general circulation.

Adopted: September 11, 2001

ADOPT 2000 MICHIGAN BUILDING CODE

(Ord. No. 136, 2001)

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Nelson under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Building Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Inspector of the Township of Nelson is hereby designated as the enforcing agency to discharge the responsibility of the Township of Nelson under Act 230, P.A. 1972, as amended, State of Michigan. The Township of Nelson assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. Repeals.

All ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date.

Pursuant to Section 8(1) of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, this Ordinance shall take effect 90 days after its adoption and 30 days after a certified copy of this Ordinance is filed with the State Construction Code Commission.

Adopted: October 9, 2001

ADOPT 1999 NATIONAL ELECTRICAL CODE

(Ord. No. 137, 2001)

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Nelson under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Electrical Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Electrical Inspector of the Township of Nelson is hereby designated as the enforcing agency to discharge the responsibility of the Township of Nelson under Act 230, P.A. 1972, as amended, State of Michigan. The Township of Nelson assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. Repeals.

All ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date.

Pursuant to Section 8(1) of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, this Ordinance shall take effect 90 days after its adoption and 30 days after a certified copy of this Ordinance is filed with the State Construction Code Commission.

Adopted: October 9, 2001

ADOPT 2000 MICHIGAN MECHANICAL CODE

(Ord. No. 138, 2001)

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Nelson under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Mechanical Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Mechanical Inspector of the Township of Nelson is hereby designated as the enforcing agency to discharge the responsibility of the Township of Nelson under Act 230, P.A. 1972, as amended, State of Michigan. The Township of Nelson assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. Repeals.

All ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date.

Pursuant to Section 8(1) of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, this Ordinance shall take effect 90 days after its adoption and 30 days after a certified copy of this Ordinance is filed with the State Construction Code Commission.

Adopted: October 9, 2001

ADOPT 2000 MICHIGAN PLUMBING CODE

(Ord. No. 139, 2001)

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Nelson under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Plumbing Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Plumbing Inspector of the Township of Nelson is hereby designated as the enforcing agency to discharge the responsibility of the Township of Nelson under Act 230, P.A. 1972, as amended, State of Michigan. The Township of Nelson assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. Repeals.

All ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date.

Pursuant to Section 8(1) of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, this Ordinance shall take effect 90 days after its adoption and 30 days after a certified copy of this Ordinance is filed with the State Construction Code Commission.

Adopted: October 7, 2006

STORM WATER ORDINANCE

(Ord. No. 146, 2003)

An ordinance to provide for the regulation and control of storm water runoff; to provide for storm water permits and the procedures and standards for the issuance thereof; to provide for payment or reimbursement of costs and expenses incurred by the Township associated with storm water permits and the consideration thereof; to establish standards and requirements for the protection of floodways and for the control of soil erosion and sedimentation; to adopt other provisions for the establishing, maintaining and protection of drains and drainageways; to provide regulations for the inspection, sampling and monitoring of storm water and other discharges; to establish performance and design standards for storm water management in specified zones of the Township; and to provide penalties for violations of the ordinance.

THE TOWNSHIP OF NELSON ORDAINS:

Article I - General

Sec. 1.01 Statutory Authority and Title.

This Ordinance is adopted in accordance with the Township Ordinance Act, as amended, being MCL 41.181, *et seq.*; the Township and Village Public Improvement Act, as amended, being MCL 41.721, *et seq.*; the Drain Code of 1956, as amended, being MCL 280.1, *et seq.*; the Land Division Act, as amended, being MCL 560.1, *et seq.*; the Revenue Bond Act, as amended, being MCL 141.101, *et seq.*; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, *et seq.*; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

This Ordinance shall be known and may be cited as the Township of Nelson Storm Water Ordinance.

Sec. 1.02 Findings.

The Township finds that:

- (2) Water bodies, roadways, structures, and other property within, and downstream of the Township are at times subjected to flooding;
- (3) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the Township and the region;
- (4) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

- (5) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants;
- (6) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the Township and downstream municipalities;
- (7) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the Township, have resulted in a deterioration of the water resources of the Township and downstream municipalities;
- (8) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the Township will, absent reasonable regulation and control, adversely affect the Township's water bodies and water resources, and those of downstream municipalities;
- (9) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development;
- (10) Adopting the standards, criteria and procedures contained in this Ordinance and implementing the same will address many of the deleterious effects of storm water runoff;
- (11) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

Sec. 1.03 Purpose.

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To reduce artificially induced flood damage.
- (2) To minimize increased storm water runoff rates and volumes from identified new land development.
- (3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures.
- (4) To encourage water recharge into the ground where geologically favorable conditions exist.
- (5) To prevent an increase in non-point source pollution.
- (6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.

- (7) To minimize the impact of development upon stream bank and streambed stability.
- (8) To reduce erosion from development or construction projects.
- (9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.
- (10) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this Ordinance.
- (11) To reduce the adverse impact of changing land use on water bodies and, to that end, this Ordinance establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient storm water management controls.

Sec. 1.04 Applicability, Exemptions and General Provisions .

- (1) This Ordinance shall apply to any development site which requires approval of a plat, a site development plan, building permit, or any other permit for work which will alter storm water drainage characteristics of the development site, provided, however, that this Ordinance shall not apply to the following:
 - (a) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.
 - (b) Farm operations and buildings, except dwellings, directly related to farm operations. This exemption shall not apply to greenhouses and other similar structures.
 - (c) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this Ordinance, where such approvals remain in effect.

Sec. 1.05 Definitions .

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise:

- (1) Base Flood – A flood having a 1 percent chance of being equaled or exceeded in any given year.
- (2) Base Flood Elevation – The high water elevation of the Base Flood, commonly referred to as the “100-year flood elevation.”
- (3) Base Flood Plain – The area inundated by the Base Flood.

- (4) Best Management Practices (BMPs) – A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality’s Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the Township Engineer, and, where appropriate, the standards of the Kent County Drain Commissioner.
- (5) Building Opening – Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.
- (6) Clean Water Act – The Federal Water Pollution Control Act, 33 USC Sec 1251 *et seq.*, as amended, and the applicable regulations promulgated thereunder.
- (7) Construction Site Storm Water Runoff – Storm water runoff from a development site following an earth change.
- (8) Design Engineer – Registered and licensed professional engineer responsible for the design of a drainage plan.
- (9) Detention – A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.
- (10) Developed or Development – The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the Township’s approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a two-family detached dwelling.
- (11) Developer – Any person proposing or implementing the development of land.
- (12) Development Site – Any land that is being or has been developed, or that a developer proposes for development.
- (13) Discharger – Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this Ordinance.
- (14) Drain – Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, *et seq.*, other than an established county or intercounty drain.
- (15) Drainage – The collection, conveyance, or discharge of ground water and/or surface water.

- (16) Drainageway – The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.
- (17) Earth Change – Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.
- (18) EPA – The United States Environmental Protection Agency.
- (19) Erosion – The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.
- (20) Exempted Discharges – Discharges other than storm water as specified in Section 4.02 of this Ordinance.
- (21) Federal Emergency Management Agency (FEMA) – The agency of the federal government charged with emergency management.
- (22) Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.
- (23) Floodplain – Any land area subject to periodic flooding.
- (24) Flood-Proofing – Any structural and/or non-structural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land, or improvements utilities and structures.
- (25) Flood Protection Elevation (FPE) – The Base Flood Elevation plus one foot at any given location.
- (26) Floodway – The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot due to the loss of flood conveyance or storage.
- (27) Grading – Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.
- (28) Illicit Connection – Any method or means for conveying an illicit discharge into water bodies or the Township’s storm water system.
- (29) Illicit Discharge – Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this Ordinance.

- (30) Impervious Surface – Surface that does not allow storm water runoff to slowly percolate into the ground.
- (31) KCDC – Kent County Drain Commissioner.
- (32) Lowest Floor – The lowest floor or the lowest enclosed area (including a basement), but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.
- (33) MDEQ – Michigan Department of Environmental Quality.
- (34) NPDES – National Pollution Discharge Elimination System.
- (35) Overland flow-way – Surface area that conveys a concentrated flow of storm water runoff.
- (36) Person – An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.
- (37) Plan – Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this Ordinance.
- (38) Pollutant – A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.
- (39) Property Owner – Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.
- (40) Retention – A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.
- (41) Soil Erosion – The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.
- (42) State of Michigan Water Quality Standards – All applicable State rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.
- (43) Storm Drain – A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.

- (44) Storm Water Permit – A permit issued pursuant to this Ordinance.
- (45) Storm Water Runoff – The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.
- (46) Storm Water Runoff Facility – The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey storm water.
- (47) Stream – A river, stream or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.
- (48) Township – The Township of Nelson.
- (49) Water Body – A river, lake, stream, creek or other watercourse or wetlands.
- (50) Watershed – A region draining into a water body.
- (51) Wetlands – Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

Article II - Storm Water Permits

Sec. 2.01 Permit Required.

- (52) A developer shall not engage in any development without first receiving a storm water permit from the Township pursuant to Section 2.02.
- (53) The granting of a storm water permit shall authorize only such development for which the permit is required, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities.

Sec. 2.02 Storm Water Permit Review Procedures.

The Township shall grant a storm water permit, which may impose terms and conditions in accordance with Section 2.09, and which shall be granted only upon compliance with each of the following requirements:

- (1) The developer has submitted a drainage plan complying with Section 2.03.
- (2) The drainage plan contains a description of an adequate, temporary storm water retention system to prevent construction site storm water runoff, satisfying the requirements of Section 2.05, and the developer has obtained a soil erosion permit, if necessary.

- (3) One of the following conditions is satisfied:
 - (a) The developer provides:
 - (1) A permanent on-site storm water system sufficient to provide on-site detention of storm water runoff in a 25-year storm event, and
 - (2) A direct connection for all storm water runoff that will be discharged from and through the development site in a 100-year storm event; or
 - (b) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property in a 100-year storm event.
- (4) The developer has paid or deposited the storm water permit review fee pursuant to Section 2.04.
- (5) The developer has paid or posted the applicable financial guarantee pursuant to Section 2.06.
- (6) The developer provides all easements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance including, but not limited to, Section 7.02. All easements shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.
- (7) The drainage plan is designed in conformity with the Township's design and performance standards for drains and storm water management systems, as set forth in Article VIII.
- (8) All storm water runoff facilities shall be designed in accordance with the then-current BMPs.
- (9) The developer provides the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved drainage plan and this Ordinance including, but not limited to, Section 7.03. The maintenance agreement shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.

Sec. 2.03 Drainage Plan.

The developer shall provide a drainage plan to the Township for review and approval by the Township. The drainage plan shall identify and contain all of the following:

- (1) The location of the development site and water bodies that will receive storm water runoff.
- (2) The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a

maximum interval of one foot (using USGS datum). The information shall be superimposed on the pertinent Kent County soil map.

- (3) The development tributary area to each point of discharge from the development.
- (4) Calculations for the final peak discharge rates.
- (5) Calculations for any facility or structure size and configuration.
- (6) A drawing showing all proposed storm water runoff facilities with existing and final grades.
- (7) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.
- (8) An implementation plan for construction and inspection of all storm water runoff facilities necessary to the overall drainage plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved drainage plan.
- (9) A plan to ensure the effective control of construction site storm water runoff and sediment track-out onto roadways.
- (10) Drawings, profiles, and specifications for the construction of the storm water runoff facilities reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this Ordinance.
- (11) A maintenance agreement, in form and substance acceptable to the Township, for ensuring maintenance of any privately-owned storm water runoff facilities. The maintenance agreement shall include the developer's written commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved drainage plan, the agreement shall authorize the Township to maintain any on-site storm water runoff facility as reasonably necessary, at the developer's expense.
- (12) The name of the engineering firm and the registered professional engineer that designed the drainage plan and that will inspect final construction of the storm water runoff facilities.
- (13) All design information must be compatible for conversion to Grand Valley Regional Geographic Information System (REGIS).

- (14) Any other information necessary for the Township to verify that the drainage plan complies with the Township's design and performance standards for drains and storm water management systems.

Sec. 2.04 Storm Water Permit Review Fees.

- (1) All expenses and costs incurred by the Township directly associated with processing, reviewing and approving or denying a storm water permit application shall be paid (or reimbursed) to the Township from the funds in a separate escrow account established by the developer, as provided in subsection (2). The Township may draw funds from a developer's escrow account to reimburse the Township for out-of-pocket expenses incurred by the Township relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:
 - (a) Services of the Township Attorney directly related to the application.
 - (b) Services of the Township Engineer directly related to the application.
 - (c) Services of other independent contractors working for the Township which are directly related to the application.
 - (d) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.
- (2) At the time a developer applies for a storm water permit, the developer shall deposit with the Township clerk, as an escrow deposit, an initial amount as determined by resolution of the Township Board for such matters and shall provide additional amounts as requested by the Township in such increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final Township approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the Township's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by Township Board resolution, before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the Township.

Sec. 2.05 Construction Site Runoff Controls.

Prior to making any earth change on a development site regulated by this Ordinance, the developer shall first obtain a soil erosion permit issued in accordance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, if one is required. The developer shall install storm water runoff facilities and shall phase the development activities so as to prevent construction site storm water runoff and off-site sedimentation. During all

construction activities on the development site, the Township Engineer may inspect the development site to ensure compliance with the approved construction site runoff controls.

Sec. 2.06 Financial Guarantee.

- (1) The Township Engineer shall not approve a storm water permit until the developer submits to the Township, in a form and amount satisfactory to the Township, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan. Upon certification by a registered professional engineer that the storm water runoff facilities have been completed in accordance with the approved drainage plan including, but not limited to, the provisions contained in Section 2.03(8), the Township may release the letter of credit, or other financial guarantee subject to final Township acceptance and approval.
- (2) Except as provided in subsection (3), the amount of the financial guarantee shall be \$10,000, unless the Township determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater than \$10,000 is appropriate, the Township shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.
- (3) The Township may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than 10 percent.
- (4) This Ordinance shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

Sec. 2.07 Certificate of Occupancy.

No certificate of occupancy shall be issued until storm water runoff facilities have been completed in accordance with the approved drainage plan; provided, however, the Township may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the Township, for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan.

Sec. 2.08 No Change in Approved Facilities.

Storm water runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

Sec. 2.09 Terms and Conditions of Permits.

In granting a storm water permit, the Township may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this Ordinance. A developer shall comply with such terms and conditions.

**Article III - Storm Water System, Floodplain
and Other Standards, Soil Erosion Control**

Sec. 3.01 Management of and Responsibility for Storm Water System.

The Township is not responsible for providing drainage facilities on private property for the management of storm water on said property. It shall be the responsibility of the property owner to provide for, and maintain, private storm water runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

Sec. 3.02 Storm Water System

All storm water runoff facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

Sec. 3.03 Storm Water Discharge Rates and Volumes.

The Township is authorized to establish minimum design standards for storm water discharge release rates and to require dischargers to implement on-site retention, detention or other methods necessary to control the rate and volume of surface water runoff discharged into the storm water drainage system, in the following circumstances:

- (5) A parcel of land is being developed in a manner that increases the impervious surface area of the parcel; or
- (6) The discharge exceeds the Township-calculated pre-development discharge characteristics for the subject property, and the Township determines that the discharge is a violation of the drainage, flooding or soil erosion regulations of this Ordinance.

Sec. 3.04 Floodplain Standards.

- (1) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the Flood Protection Elevation (FPE) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Floodway alteration shall be permitted only upon review and approval by the Township, in accordance with an approved drainage plan.
- (2) A drainage plan providing for the filling or alteration of a floodway may include provisions for maintaining stability of the banks of streams or other water bodies, by

means of the establishing of buffer zones and other means of providing protection of the slopes and banks of water bodies.

- (3) Within any required buffer zone, no earth change shall take place except in accordance with the approved drainage plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.

Sec. 3.05 Soil Erosion and Sedimentation Control.

- (1) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control so as to adequately prevent soils from being eroded and discharged or deposited onto adjacent properties or into a storm water drainage system, a public street or right-of-way, wetland, creek, stream, water body, or floodplain. All development shall be in accordance with all applicable federal, state and local ordinances, rules and regulations.
- (2) During any earth change which exposes soil to an increased risk of erosion or sediment track-out, the property owner and other persons causing or participating in the earth change shall do the following:
 - (a) Comply with the storm water management standards of this Ordinance.
 - (b) Obtain and comply with the terms of a soil erosion and sedimentation control permit if required by law.
 - (c) Prevent damage to any public utilities or services within the limits of grading and within any routes of travel or areas of work of construction equipment.
 - (d) Prevent damage to or impairment of any water body on or near the location of the earth change or affected thereby.
 - (e) Prevent damage to adjacent or nearby land.
 - (f) Apply for all required approvals or permits prior to the commencement of work.
 - (g) Proceed with the proposed work only in accordance with the approved plans and in compliance with this Ordinance.
 - (h) Maintain all required soil erosion and sedimentation control measures, including but not limited to, measures required for compliance with the terms of this Ordinance.
 - (i) Promptly remove all soil, sediment, debris, or other materials applied, dumped, tracked, or otherwise deposited on any lands, public streets, sidewalks, or other public ways or facilities, including catch basins, storm sewers, ditches, drainage swales, or water bodies. Removal of all such soil,

sediment, debris or other materials within 24 hours shall be considered prima facie compliance with this requirement, unless such materials present an immediate hazard to public health and safety.

- (j) Refrain from grading lands at locations near or adjoining lands, public streets, sidewalks, alleys, or other public or private property without providing adequate support or other measures so as to protect such other lands, streets, sidewalks or other property from settling, cracking or sustaining other damage.
- (k) Request and obtain inspection of soil erosion and sedimentation control facilities, by the Township at such frequency as required by the Township.

Sec. 3.06 Building Openings.

- (1) No building opening shall be constructed below the following elevations:
 - (a) One foot above the 100-year floodplain.
 - (b) The building opening established at the time of plat or development approval and on file in the Township Engineering Department.
 - (c) Three feet above the top of any downstream culvert.
 - (d) Four feet above the bottom of any permanent and defined drain.
- (2) A waiver from elevations stated in Section 3.05(1) may be granted by the Township Engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.
- (3) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this Ordinance. This certificate shall attest that the building opening elevation complies with the standards of this Ordinance. The permittee for the building permit shall submit the certificate to the Township building inspections official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Section 3.06(1)(b) or (c), that opening must be raised using a method that meets with the approval of the Township. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this Ordinance prior to the commencement of framing and or structural steel placement.

Sec. 3.07 Health, Safety and Welfare.

Protection of the public health, safety and welfare shall be a primary consideration in the design of all storm water runoff facilities.

Article IV - Prohibitions and Exemptions

Sec. 4.01 Prohibited Discharges.

- (4) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with best management practices.
- (5) The Township is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Township's storm water drainage system.

Sec. 4.02 Exempted Discharges.

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

- Water supply line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground water
- Uncontaminated ground water infiltration to storm drains
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Individual residential car washing
- Dechlorinated swimming pool water
- Street washwater
- Discharges or flows from emergency fire fighting activities
- Discharges for which a specific federal or state permit has been issued.

Sec. 4.03 Interference with Natural or Artificial Drains .

- (1) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any natural or constructed drain, or drainageway without first submitting a drainage plan to the Township and receiving approval of that plan. Any deviation from the approved plan is a violation of this Ordinance. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety, or welfare.
- (2) No filling, blocking, fencing or above-surface vegetation planting shall take place within a floodway.
- (3) For an overland flow-way:

- (a) Silt screen fences shall not be permitted below the top of the bank of a water body.
 - (b) Chain link fences shall be permitted if the Township determines that the fence will not obstruct or divert the flow of water.
 - (c) If a fence is removed by the Township for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense.
 - (d) No shrubs or trees shall be planted below the top of the bank of a water body.
- (4) Shrubs, trees or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

Sec. 4.04 Storage of Hazardous or Toxic Materials in Drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

**Article V - Inspection, Monitoring,
Reporting, and Recordkeeping**

Sec. 5.01 Inspection and Sampling.

To assure compliance with the standards in this pervasively regulated area, the Township may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Township's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Township shall provide the discharger reasonable advance notice of such inspection and/or sampling. The Township or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

Sec. 5.02 Storm Water Monitoring Facilities.

A discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the Township. The Township may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

Sec. 5.03 Accidental Discharges.

- (5) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the Township concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the Township within five days. The written report shall specify:
 - (a) The composition of the discharge and the cause thereof.
 - (b) The exact date, time, and estimated volume of the discharge.
 - (c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (d) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (6) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of Section 5.03(1).

Sec. 5.04 Record Keeping Requirement.

Any person subject to this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

Article VI - Enforcement

Sec. 6.01 Sanctions for Violation.

- (7) Any person violating any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$100 nor more than \$500 for a first offense, and not less than \$500 nor more than \$1,000 for subsequent offenses, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in Section 6.01(2) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An

admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The Township Supervisor or the Township Enforcement Officer are authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this Ordinance.

- (8) Any person who neglects or fails to comply with a stop work order issued under Section 6.02 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.
- (9) Any person who aids or abets a person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

Sec. 6.02 Stop Work Order.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this Ordinance, the Township is authorized to issue a Stop Work Order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The Township may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

Sec. 6.03 Failure to Comply; Completion

In addition to any other remedies, should any owner fail to comply with the provisions of this Ordinance, the Township may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the Township for all costs of such work.

Sec. 6.04 Emergency Measures.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the Township is authorized to carry out or arrange for all such emergency measures. Property owners shall

be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the Township for all of such costs.

Sec. 6.05 Cost Recovery for Damage to Storm Drain System.

A discharger shall be liable for all costs incurred by the Township as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this Ordinance. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 6.06 Collection of Costs; Lien.

Costs incurred by the Township and the Drain Commissioner pursuant to Sections 6.02, 6.03, 6.04 and 6.05 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the Township Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 6.07 Appeals.

Any person as to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Township Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Township Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Township Board may consider the recommendations of the Township Engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the Township may grant a variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the ordinance.
- (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this Ordinance, nor result in less effective management of storm water runoff.

Article VII - Storm Water Easements and Maintenance Agreements

Sec. 7.01 Applicability of Requirements.

The requirements of this article concerning storm water easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the Township for review and approval.

Sec. 7.02 Storm Water Management Easements.

The developer shall provide all storm water management easements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance required by the Township and shall record such easements as directed by the Township. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways.

Sec. 7.03 Maintenance Agreements.

The developer shall provide all storm water maintenance agreements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance as required by the Township, and shall record such agreements as directed by the Township. The maintenance agreements shall, among other matters, assure access for proper inspection and maintenance of storm water runoff facilities and adequate emergency overland flow-ways.

Sec. 7.04 Establishment of County Drains.

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

Article VIII - Performance and Design Standards

Sec. 8.01 Performance Standards.

In order to achieve the goals and purposes of this Ordinance, the following three storm water management zones (Zones A, B and C) are hereby established. The zones are shown on the map attached as Appendix A and made a part of this Ordinance.

- (3) Zone A represents areas which require the most protective storm water management regulations. The goal of this zone is to preserve the natural condition of water bodies included in it, in whole or in part. Zone A has, in general, little impervious surface area and few storm water facilities. In this zone, when site conditions permit, infiltration of storm water runoff shall be required, rather than the directed flow of storm water runoff into water bodies. This storm water management practice provides greater protection for surface water quality, and also assists in augmenting stream base flow, reduction of flash storm flows and prevention of stream bank

erosion. Section 8.02 specifies design criteria for Zone A, in order that the volume and rate of storm water runoff are controlled at predevelopment levels.

- (4) Zone B represents developed areas that have significant impervious surfaces and storm water runoff facilities in place. The goal of Zone B is the control of storm water runoff in order to prevent further destabilizing of streams and other water bodies. In this zone, the use of detention ponds, the maintenance and enhancement of buffer strips and other measures to reduce directly-connected impervious areas are specified in Section 8.02 for the achieving of the storm water management standards applicable to Zone B. The management practices for this zone are intended to maintain existing water quality and to alleviate adverse downstream impact on water bodies.
- (5) Zone C consists of highly urbanized areas, or areas where there has been significant modification of drainageways. The amount of impervious surface area in Zone C is generally greater than 25 percent. Among the measures required in Zone C, as stated in Section 8.02, are the use of sediment basins, the maintenance and enhancement of buffer strips along water bodies and the reduction of impervious surface areas that are directly connected to water bodies. An important element of storm water management practice in Zone C is the control and prevention of sedimentation, in order to reduce pollution of water bodies.

Sec. 8.02 Design Standards.

The design standards for storm water runoff facilities for Zones A, B and C, as described in Section 8.01, are the following:

	Zone A	Zone B	Zone C
Criteria	High quality waters. Meets water quality standards. Less than 10% imperviousness.	Degraded physical, biological, or water quality indicators. 10% to 25% imperviousness.	Heavily degraded physical, biological, or water quality indicators. Greater than 25% imperviousness.
Storm Water Management Standards	Use infiltration basins, infiltration trenches, extended detention basins, and/or constructed wetlands. Maintain and enhance buffer strips.	Use detention ponds; maintain and enhance buffer strips, and reduce directly connected impervious area.	Use sediment basins, maintain and enhance buffer strips, and reduce directly connected impervious area.

Water Quality Control	Detain the first 0.5” of runoff from the contributing watershed, with detention per Zone B and infiltration where conditions permit, or provide equivalent treatment.	Detain the first 0.5” of runoff from the contributing watershed for 24 hours or provide equivalent treatment.	Provide sedimentation control within the drainage system.
Bank Erosion Control	Rate of release shall be limited to 0.05 cfs/acre for a 2-year storm event.	None	Storm water runoff shall not exceed the capacity of the downstream conveyance system.
Flood Control	Detention with infiltration when conditions permit. Release rate of 0.13 cfs/acre per KCDC rules.	Release rate of 0.13 cfs/acre per KCDC rules.	Direct conveyance of storm water runoff within the capacity of downstream system.

Sec. 8.03 Resolution to Implement Performance and Design Standards.

The Township Board of the Township may adopt a resolution establishing more detailed design and performance standards for storm water runoff facilities, consistent with the terms of this Ordinance, and in order to further implement its goals and purposes.

Article IX - Other Matters

Sec. 9.01 Interpretation.

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

Sec. 9.02 Catch-Line Headings.

The catch-line headings of the articles and sections of this Ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

Sec. 9.03 Severability.

The provisions of this Ordinance are hereby declared to be severable, and if any part or provision of this Ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of the ordinance.

Sec. 9.04 Other Ordinances.

This Ordinance shall be in addition to other ordinances of the Township, and shall not be deemed to repeal or replace other ordinances or parts thereof except to the extent that such repeal is specifically provided for in this article.

Sec. 9.05 Effective Date.

This Ordinance was adopted April 8, 2003 by the Township Board.

Adopted: April 8, 2003

**LICENSING OF PEDDLERS, SOLICITORS
AND TRANSIENT MERCHANTS ORDINANCE**

(Ord, No. 149, 2004)

An ordinance to require the licensing of peddlers, solicitors and transient merchants within the Township; to establish procedures for granting licenses; and to provide penalties for violation of the licensing requirements.

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Purpose.

The purposes of this Ordinance are to protect the interests of the public health, safety and welfare of the citizens of the Township by the regulation, licensing and control of peddlers, hawkers, solicitors and similar salespersons conducting business within the Township.

Section 2. License Required.

It shall be unlawful for any peddler, solicitor or transient merchant, whether a person, firm or corporation, to peddle, solicit or engage in business as a transient merchant within the Township as to any merchandise, article or thing without having first secured a license from the Township therefore.

Section 3. Definitions.

- (1) The term "solicitor," as used in this Ordinance, shall mean any person, except persons exempt under Section 5, traveling either by foot or vehicle from place to place, who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. Such definition shall include any person who uses or occupies any building, structure or other place in the Township for such purposes.
- (2) The term "peddler," as used in this Ordinance, shall mean any person traveling either by foot or vehicle from place to place, carrying goods, wares or merchandise, and offering the same for sale, or making sales and delivering articles to purchasers, or offering to provide services, either immediately or in the future, except exempt persons as stated in Section 5.
- (3) The term "transient merchant," as used in this Ordinance, shall mean any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure; provided, however, that such definition shall not include merchants having regularly established places of business within the Township, and shall not apply to persons making sales at any annual fair, street fair, festival, annual celebration or observance; and further provided that such definition shall not include exempt persons as stated in Section 5.

Section 4. License, Application and Fee.

- (1) Application for a license for a peddler, solicitor or transient merchant shall be made to the Township Clerk. The application shall be in the form prescribed by the Township and shall include the following:
 - (a) The name, address and telephone number of the applicant, including both local information and permanent information, if different;
 - (b) The name, address and telephone number of each employee or independent contractor who shall be operating as a peddler, solicitor or transient merchant, if any;
 - (c) A description of the nature of the business and the goods or services to be offered;
 - (d) The place where the goods, if any, are manufacturer or produced, where they are located at the time the application is filed and the proposed method of delivery;
 - (e) Such other information as the Clerk may reasonably determine is necessary to determine the nature and character of the proposed operations;
 - (f) The address of the place at which the business is to be conducted, if any; and
 - (g) The description and number of vehicles to be used in such operations, if any.
- (2) Any applicant for such a license shall pay the fee prescribed therefor by the Township Board. The fee shall be \$25; provided, however, the Township Board may by resolution amend the fee amount or prescribe a different fee.
- (3) A license under this Ordinance shall be for a duration not to exceed 30 days; provided, however, the license may be renewed without payment of a further fee if the information contained in the renewal application remains unchanged from the original application. The Township Clerk shall review applications and issue licenses.

Section 5. Exempt Persons.

- (1) This Ordinance shall not apply to persons soliciting contributions to, or offering to sell goods or products in behalf of, churches or other organizations primarily involving religious worship or observance; public or private schools; youth organizations; local general-purpose charities such as United Way; provided, however, that any such church, school, youth organization or local general-purpose charity shall be an exempt charitable organization under the U.S. Internal Revenue Code.

- (2) Any person who is exempt from the licensing requirements of this Ordinance, based on the terms of any state or federal law, shall be exempt from the licensing requirements of this Ordinance, but such persons shall remain subject to the other provisions hereof.

Section 6. Hours and Days of Business.

No peddler, solicitor or transient merchant shall call at any dwelling or residence except between the hours of 9:00 a.m. and 7:00 p.m. on Monday through Saturday without an appointment.

Section 7. Obedience to Signs.

No peddler, solicitor or transient merchant shall call without an appointment at any dwelling or residence where a sign is displayed stating “no peddlers,” “no solicitors,” “no salesman,” “no trespassing,” or words of similar meaning or import.

Section 8. Exhibition of License.

If requested by any person, a peddler, solicitor or transient merchant shall exhibit the Township license issued to him or her.

Section 9. Fraud.

Any licensed peddler, solicitor or transient merchant who shall be guilty of any fraud, cheating or misrepresentation, whether directly or through any other person, while acting as a peddler, solicitor or transient merchant within the Township, shall be in violation of this Ordinance.

Section 10. Penalty.

- (1) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for a subsequent offense, in the discretion of the court, in addition to all other costs, damages, attorneys fees and expenses. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
- (2) The Township Supervisor, the Kent County Sheriff or Deputy Sheriff and such other officer or other official designated by the Township Supervisor are hereby authorized to issue citations for violation of the provisions of this Ordinance if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the infraction. If a

citation is based solely on the complaint of someone who allegedly witnessed the violation, and not upon the personal observation of the official, then the citation shall be approved in writing by the Township Supervisor.

- (3) Citations shall be numbered consecutively and shall be in a form approved by the state court administrator's offices.
- (4) Citations shall be served upon the alleged violator as provided by law.
- (5) Citations shall require the appearance at the district court within a reasonable time after the citation has been issued. The procedures for admission or denial of responsibility, request for informal or formal hearings, and all matters related to the processing of citations for civil infractions shall be as provided by law.

Section 11. Findings.

The Township Board finds that the regulation of peddlers, solicitors and transient merchants, as provided in this Ordinance, is a reasonable regulation of persons and property, and that the ordinance is necessary and helpful to the protection of the public health, safety and general welfare of the citizens of the Township and others.

Section 12. Publication; Effective Date.

This Ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a newspaper of general circulation in the Township.

Adopted: May 11, 2004

**AN ORDINANCE TO REGULATE THE INSTALLATION
AND USE OF OUTDOOR FURNACES**

(Ord. No. 156, 2007)

THE TOWNSHIP OF NELSON ORDAINS:

Section 1. Purpose.

The purpose of this ordinance is to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the Township of Nelson so as to secure and promote the public health, safety and welfare of the Township and its inhabitants. Outdoor furnaces can create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles and other products of combustion, particularly when restricted airflow and low operating temperatures are present. These products can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property. These regulations are intended to eliminate noxious and hazardous conditions caused by outdoor furnaces.

Section 2. Outdoor Furnaces Defined.

For purposes of this ordinance, the term "outdoor furnace" shall mean a furnace, stove or boiler that is not located within a building or structure intended for habitation by humans or domestic animals, but that provides heat or hot water for such building or structure.

Section 3. Regulations.

An outdoor furnace shall not be permitted within the Township unless it complies with each of the following regulations:

- A. **Setback.** The outdoor furnace shall be located no less than 100 feet from the nearest building which is not on the same property as the outdoor furnace and no less than 50 feet from the nearest side and rear property lines of another property. No outdoor furnace shall be located in front of the principal building on a parcel, unless the outdoor furnace is located at least 100 feet back from the front lot line as measured at the street right-of-way line, not the center of the street.
- B. **Chimney Height.** If there are any buildings, not on the same property as the outdoor furnace, within 150 feet of the outdoor furnace, the chimney of the outdoor furnace shall be at least two feet above the peak of the roof of such buildings. Further, all chimneys shall have a minimum height of 20 feet.
- C. **Non-Combustible Surface.** The outdoor furnace shall be installed on a non-combustible hard surface designed to prevent settling.
- D. **Fuel.** No fuel other than natural wood without additives, wood pellets without additives, corn and agricultural seeds in their natural state may be burned. The following materials are specifically prohibited:

- (1) Rubbish or garbage, including but not limited to food waste, food wraps, packaging, animal carcasses, animal waste, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (2) Waste oil or other oily wastes.
- (3) Asphalt and products containing asphalt.
- (4) Treated or painted wood including, but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (5) Any plastic material including, but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (6) Rubber, including tires and synthetic rubber-like products.
- (7) Any fuel that violates any other state or federal regulations.

Section 4. Permit.

The owner of an outdoor furnace shall obtain an installation permit from the Township, according to the following provisions:

- A. **Application Information.** The applicant for a permit shall submit the following information:
 - (1) Verification that the installation of the outdoor furnace will comply with the manufacturer's specifications for such outdoor furnace.
 - (2) Verification that the outdoor furnace will comply with all applicable state and federal statutes.
 - (3) A drawing providing the location of the proposed outdoor furnace and of nearby residences, together with the height of all applicable roofs, so as to establish compliance with all regulations contained in this Ordinance.
- B. **Application Permit; Fee.** The Zoning Administrator, or such other person as is designated by the Township Board, shall review each application and issue a permit to such applicants as meet the requirements contained in this Ordinance. The Township Board may establish by resolution a fee for the processing of outdoor furnace permit applications.

Section 5. Liability.

A person using or maintaining an outdoor furnace shall be responsible for all fire suppression, costs and other liability resulting from damage caused by the outdoor furnace. Compliance with this Ordinance shall not be a defense to any civil claims. Nothing in this Ordinance shall authorize any installation or use that is a public or private nuisance, regardless of compliance herewith.

Section 6. Other Requirements.

In addition to this Ordinance, an outdoor furnace shall comply with the mechanical code and any other applicable codes and shall be laboratory tested to appropriate safety standards such as UL, ANSI, or other applicable safety standards. All permits required by such codes shall be obtained. Failure to obtain such permits or to comply with applicable codes shall be a violation of this Ordinance.

Section 7. Existing Outdoor Furnaces.

This Ordinance shall apply to all installations of outdoor furnaces after the effective date of this Ordinance, except that existing outdoor furnaces registered with the Township by December 31, 2007 are excluded from sections 3A, 3B and 3C. The owner of an existing outdoor furnace must be granted a waiver from the provisions of this Ordinance upon registration of the existing outdoor furnace with the Township and upon proof to the Zoning Administrator or other board appointee that the installation of the outdoor furnace was completed before the effective date of this Ordinance, and that the existing outdoor furnace does not constitute a safety or health hazard.

Section 8. Severability.

The sections and provisions of this Ordinance are severable and any portion which is declared inoperative or invalid for any reason by a court of competent jurisdiction shall in no way affect the remaining sections or provisions of this Ordinance.

Section 9. Penalty.

- A. Failure to comply with the requirements of this Ordinance is hereby declared to be a nuisance per se. A violation of this Ordinance is a municipal civil infraction, for which the fine shall not be less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court and in addition to all other costs, damages and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.
- B. Each day during which any violation continues shall be deemed a separate offense.

- C. The foregoing penalty shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Section 10. Effective Date.

This Ordinance shall become effective 30 days after publication of a summary of the provisions thereof in a local newspaper of general circulation within the Township.

Adopted: June 12, 2007