

Chapter 26

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ARTICLE I. IN GENERAL

Sees. 26-1-26-25. Reserved.

ARTICLE II. BLIGHT**Sec. 26-26. Purpose.**

It is the purpose of this article to remove, eliminate, repair, and/or rehabilitate such structures, uses and activities which are of a nature to cause blight or blighting conditions and to safeguard structures upon which public good depends.
(Comp. Ords. 1987, § 20.501)

Sec. 26-27. Causes or factors.

(a) It is hereby determined that the following structures, uses and activities are causes of blight or are blighting factors which, if allowed to exist, will result in blighted neighborhoods and will harm the economic structure upon which the public good depends. On and after July 17, 1981, no person shall maintain or permit to be maintained any of these blights or blighting conditions upon any land or premises in the township.

(b) The following activities are expressly prohibited in the township:

- (1) In any area zoned residential by the zoning ordinance, the out-of-doors storage upon any premises of building materials unless construction work is being done on such premises under a building permit and such materials are intended for use in connection with such construction. Building materials shall include, but shall not be limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure; provided further, that all construction debris shall be removed from any premises prior to the issuance of a certificate of occupancy by the building inspector.
- (2) In any area zoned residential by the zoning ordinance, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such manner as not to create a nuisance, for a period not to exceed 30 days. The term "junk" shall include parts of machinery or motor vehicles, construction machinery or parts thereof, unused stoves or other appliances stored in the open, metal or any other material or other castoff material of any kind whether or not the same could be put to any reasonable use.
- (3) In any area zoned residential by the zoning ordinance, the existence of any vacant dwelling, garage, or out-building unless the same is kept securely locked, windows kept glazed or boarded up, and otherwise protected to prevent entrance thereto by an unauthorized person.

(4) In any area zoned other than residential by the zoning ordinance, the causes of blight or blighting factors in this section prohibited in any area zoned for residential purposes, unless such uses of property are incidental to and necessary for the carrying on of the use lawfully being conducted upon the premises involved.

(5) In any area, the existence of any structure or part of structure which, because of fire, wind, or other natural disaster or physical deterioration, is no longer habitable as a dwelling nor useful for any other purpose for which it may have been intended.

(6) In any area, the existence of any partially completed structure, unless such structure is in the course of construction in accordance with a valid and existing building permit issued by the township and unless exterior construction is completed within one year after issuance thereof, unless this time is extended by the building inspector.

(Comp. Ords. 1987, § 20.502)

Sec. 26-28. Enforcement; violation.

(a) This article shall be enforced by the ordinance enforcement officer of the township.

(b) The owner and the occupant of any property upon which any of the causes of blight or blighting factors set forth in section 26-27 is found to exist shall be notified in writing to remove or eliminate such causes from such property within ten days after service of the notice upon such persons. Such notice may be served personally or by certified, return receipt requested mail. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting are in progress.

(c) Failure to comply with such notice within the time allowed the owner and/or occupant shall constitute a violation of this article. Each day that there is such a failure to comply shall constitute a separate offense.

(Comp. Ords. 1987, § 20.503)

Secs. 26-29-26-45. Reserved.

ARTICLE III. DISMANTLED VEHICLES*

Sec. 26-46. Purpose.

The purpose of this article is to limit and restrict the outdoor storage, parking or unreasonable accumulation of junk, unused, partially dismantled or nonoperating motor vehicles, house trailers or tractor trailers, or new or used parts thereof, upon premises primarily used or zoned for any type of residential purpose within the township; to thereby avoid injury and hazards to children and others attracted to such vehicles or trailers, the devaluation of property values, and the psychological ill effect of the presence of such vehicles or trailers upon adjoining residents and property owners. (Comp. Ords. 1987, § 20.452)

*Cross reference-Traffic and vehicles, ch. 62.

Sec. 26-47. Parking, storing, repairing, etc., prohibited; exceptions.

(a) No person shall park, store, or place upon any public right-of-way or public property, or upon any premises that is primarily used or is zoned for any type of residential purpose within the township, any motor vehicle, house trailer or tractor trailer, or new or used parts or junk therefrom, unless the same is wholly contained within a fully enclosed building and does not violate any rezoning or building laws of the township, county, or state, except for the following:

(1) Duly licensed and operable vehicles or trailers with substantially all main component parts attached.

(2) Vehicles or trailers that are temporarily inoperable because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed 30 days.

(3) Not more than one vehicle in fully operating condition, such as a stock car or modified car that has been redesigned or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side street yard area of any such residential premises.

(b) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or on any property primarily used or zoned for any type of residential purpose for a period in excess of 24 hours except such as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of the township zoning ordinance. Any such work within the 24-hour period allowed in this section shall not, however, consist of any major repair, redesigning, modifying or dismantling work, but only such occasional minor work as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.

(c) In the event the regulations in this section create any special or peculiar hardship beyond the control of a particular violator thereof because of unforeseen circumstances, the township building inspector is hereby given the authority to grant permission to an applicant to operate contrary to the provisions of this section for a limited period of not to exceed 14 days; provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of this article are still substantially observed.

(Comp. Ords. 1987, § 20.453)

Sec. 26-48. Nuisance.

Any parking, storage, placement, or operation in violation of the provisions of this article is hereby declared to be a public nuisance which may be enjoined or which may subject the violator to civil damages and the fines and penalties provided for in this section.

(Comp. Ords. 1987, § 20.454)

Sec. 26-49. Operation of licensed establishments.

This article shall not prevent the operation of any licensed junkyard, salvage yard, garage, body, or paint shop legally operating within a proper zone, as defined in the township zoning ordinance, and shall be in addition to any other laws or ordinances respecting rubbish, refuse, litter, trash, or junk control and regulations.

(Comp. Ords. 1987, § 20.455)

Sec. 26-50. Violation; penalty; disposal of vehicles.

(a) Any person who violates any of the provisions of this article shall be deemed guilty of a municipal civil infraction and shall be punished as provided in section 1-8.

(b) In addition to the imposition of the fine and penalties in subsection (a), the township building inspector, any township police officer, or such other" officer as the township board may designate may cause any vehicle, trailer, or parts thereof which violate the provisions of this article to be removed from the premises, impounded and destroyed, or sold for junk in the discretion of such officer, and cost thereof assessed against the owner of such vehicle, trailer or parts thereof, or of the premises on which the same are located. Any sums realized on the sale of the same may be retained by the township to reimburse it for the costs incurred in such removal and sale, to the extent of such costs. Any balance of such remaining after such reimbursement shall be returned to the owner of such vehicle, trailer, or parts thereof. (Comp. Ords. 1987, § 20.457)

Secs. 26-51-26-80. Reserved.

ARTICLE IV. JUNKYARDS*

Sec. 26-81. Definitions.

The following terms, when used in this article, shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning:

Junk dealer means a person, partnership or corporation which shall operate a junkyard.

Junkyard means any establishment or premises where worn-out or discarded material is bought, kept, sold and/or stored. Any premises upon which two or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored for a period of 30 days or more shall be deemed to be a junkyard within the meaning of this article.

(Comp. Ords. 1987, § 20.552)

Cross reference-Definitions generally, § 1-2.

***State law references**-Junkyards near highways, MCL 252.201 et seq.; licensing of secondhand and junk dealers, MCL 445.401 et seq., 445.471 et seq.

Sec. 26-82. License-Required.

It shall be unlawful to operate or carry on the business of junk dealer or to operate any junkyard without having obtained the license therefor as is provided in this article.

(Comp. Ords. 1987, § 20.553)

Sec. 26-83. Same-Application and annual fees.

Application and annual licensing fees will be established by resolution of the township board and as further provided.

(1) *Application fee.* An application fee shall be charged for each application to establish an automobile salvage yard or other junkyard, as defined in this article. Such application fee shall be established by resolution of the township board. The application fee is intended to cover administrative costs attendant the review of an application as required in this article and to cover the costs of retaining professional assistance to assist the township planning commission in reviewing and determining of site improvements and development controls.

(2) *Annual license fee.*

- a. An annual license fee shall be charged each operator of a junkyard payable on January 1 of each year. Such annual license fee shall be established by resolution of the township board. The first license shall be prorated for the remaining months in the calendar year in which the license was first obtained. Such annual license fee is based upon the premises that the land in the township is a valuable resource and that the use of land as a junkyard, as defined in this article, has a negative impact on the value of adjacent lands. This negative value impact on adjacent lands has the effect of lowering the assessed valuation on the township and, consequently, the tax base of the township. Moreover, the use of the land itself as a junkyard does not produce an assessed evaluation commensurate with the valuation produced by other industrial usage.
- b. The annual license fee is therefore intended to compensate the township for potential tax revenue losses resulting from the negative value impact of a junkyard and from the loss in valuation from an otherwise developed parcel of industrial land.
- c. An annual license fee shall be established by resolution of the township board. Such annual fee shall be based upon a rate per acre of land used for junk storage and related purposes, as defined in this article.

(Comp. Ords. 1987, § 20.554)

Sec. 26-84. Site plan review and approval.

An application to establish a junkyard shall be subject to the site plan review provisions of the township zoning ordinance. The application and site plan shall be submitted to the township planning

commission, who shall exercise discretion in approving or disapproving the plan using the same standards of review as provided in its rules of procedure, except that additional site standards are prescribed in this article. (Comp. Ords. 1987, § 20.555)

Sec. 26-85. Site development standards.

The following site development standards shall be made a part of the site standards included in the site plan review provisions of the township zoning ordinance:

(1) *Greenbelt; screening.*

- a. No junk material or on-site roadway shall be located within 50 feet of a property line. Such 50 feet of land area shall be retained as a greenbelt totally circumscribing the operation of the junkyard, except that, where a property line abuts a public street or residential zoning district, a screening device with a vertical rise of at least seven feet shall be established on the 50-foot greenbelt area. Such vertical rise shall be measured from the crown of an adjacent road or at the average grade of an adjacent residential zoning district.
- b. Such screening device shall consist of an earthberm or a combination earthberm and hedge-like evergreen trees. The slope of the earthberm and the balance of the greenbelt shall be maintained as a lawn area and the slopes shall not exceed a vertical rise of one foot vertical to three feet horizontal.

(2) *Height of junk material.* No junk material shall be kept in place so as to be seen from an adjacent public road or residential zoned property. For all intents and purposes, junk material shall not exceed a height of seven feet within 100 feet of any property line; thereafter, the height may not exceed 15 feet.

(3) *Road surfaces.* Driveways and public access road surfaces into the site and within 500 feet of the driveways leading into the site shall be hardsurfaced in a manner acceptable to the county road commission, including provisions for drainage. All roadways within the property shall have dust-free surfaces approved by the building inspector.

(4) *Other requirements.* All other requirements of the township zoning ordinance and, in particular, section 16.15 pertaining to performance standards, shall apply to any licensed junkyard.
(Comp. Ords. 1987, § 20.556)

Sec. 26-86. District location for subsequent junkyards.

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Except as provided in section 16.04 of the township zoning ordinance pertaining to nonconforming use provisions, every junkyard established after this article shall be located in an industrial zoning district.
(Comp. Ords. 1987, § 20.557)

Secs. 26-87-26-110. Reserved.

ARTICLE V. GRASS AND NOXIOUS WEEDS***Sec. 26-111. Definition.**

For the purpose of this article, the term "noxious weeds" shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* L.) and poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*), grasses, brush or other vegetation or other plant which, in the opinion of the township board, coming under the provisions of this article, is regarded as a common nuisance.

(Comp. Ords. 1987, § 35.252; Ord. No. 05-04, 6-14-2005)

Cross reference-Definitions generally, § 1-2.

State law reference-Similar definition, MCL 247.62.

Sec. 26-112. Commissioner of noxious weeds-Appointment.

The township board may appoint a competent person to be the commissioner of noxious weeds, and such person shall take the oath required of township officers and shall hold office for a term of two years, or until a successor is appointed and qualified, and he shall receive for his compensation such sum as may be fixed by the township board. The township board may, at any time, for good cause shown, remove such commissioner from office and appoint his successor to serve the remaining portion of his term. The board shall report the name and address of the person so appointed to the state department of agriculture within ten days after making such appointment.

(Comp. Ords. 1987, § 35.251)

State law reference-Similar provisions, MCL 247.61.

Sec. 26-113. Same-Duties.

It shall be the duty of the commissioner of noxious weeds to make diligent inquiry concerning the introduction and existence of noxious weeds in the township and, if such weeds are found to be growing therein, the commissioner shall take care that they do not go to seed or otherwise spread or become a detriment to the public health; and he shall carefully seek out and learn, so far as practicable, the best methods of their destruction; and he shall persistently apply, in proper time, such remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

(Comp. Ords. 1987, § 35.253)

Sec. 26-114. Destruction; notice; lien.

(a) The owner of land on which noxious weeds, grasses and/or plant growth are found growing shall destroy the weeds before they reach a seed-bearing stage and prevent their regrowth, or shall prevent them from becoming a detriment to public health. The commissioner of noxious weeds shall notify by

***Cross reference**-Solid waste, ch. 54.

State law reference-Control and eradication of noxious weeds, MCL 247.61 et seq.

regular mail the owner, agent, or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and/or plant growth and a summary of the provisions of this section. Failure of the commissioner to give the notice does not, however, constitute a defense to an action to enforce the payment of a fine provided for, or debt created under, this article. If the owner, agent or occupant refuses to destroy the noxious weeds, the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the township shall have a lien against the land for the amount of the expense. The lien shall be enforceable as a tax lien as is provided by law against the property to be charged and collected as for general property taxes and assessments against the property on the township's tax rolls.

(b) For the purpose of controlling and eradicating noxious weeds, grasses and/or plant growth in subdivided land, if the owner, agent or occupant of subdivided land in a subdivision in which buildings have been erected on 60 percent of the lots, or the owner, agent or occupant of a lot along an improved street in common usage has failed, after ten days' notice as provided in this section, to destroy the weeds, for a depth often rods or the depth of the lot, whichever is less, then an agent authorized by the township board may enter upon the lot and destroy noxious weeds by cutting. Mechanical equipment that will not damage the property or the adjacent sidewalk may be used to cut the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the lot. The township shall have a lien upon the lot for the amount of the expense. The lien shall be enforceable as a tax lien as is provided by law against the property to be charged and collected as for general property taxes and assessments against the property on the township's tax rolls.

(Comp. Ords. 1987, § 35.254; Ord. No. 05-04, 6-14-2005; Ord. No. 05-04, 6-14-2005; Ord. No. 05-05, 7-12-2005)

State law reference-Similar provisions, MCL 247.64(1), (2).

Sec. 26-115. Cutting; published notice, costs, exception.

(a) Instead of the notice required by section 26-114, the township may publish a notice in a newspaper of general circulation in the county during the month of March that weeds and/or plant growth not cut by May 1 of that year may be cut by the township, and the owner of the property charged with the cost under the provisions of section 26-114. The publication shall also contain all other information required of the notice provided for in section 26-114. The township may cut weeds and/or plant growth as many times as is necessary and charge the cost to the property owner.

(b) The provisions of this article relative to entering on property for the cutting of weeds shall not apply to railroads, which shall continue to be subject to the provisions of section 26-116.
(Ord. No. 05-04, 6-14-2005)

Sec. 26-116. Failure of railroad to destroy; penalty.

If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy or take other certain means of exterminating noxious weeds and/or plant

growth that may at any time be growing upon the right-of-way or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than \$50.00, nor more than \$200.00. (Ord. No. 05-04, 6-14-2005)

State law reference-Similar provisions, MCL 247.71.

Sec. 26-117. Fine.

Any owner who shall refuse to destroy such noxious weeds, grasses and/or plant growth as provided for in section 26-114 shall be subject to a fine of not more than \$100.00, such fine, when collected, to become a part of the noxious weed control fund of the township. (Camp. Ords. 1987, § 35.255; Ord. No. 05-04, 6-14-2005)

State law reference-Similar provisions, MCL 247.64(3).

Sec. 26-118. Exception.

Nothing in this article contained shall apply to weeds in fields devoted to growing any small grain crops, such as wheat, oats, barley or rye. (Camp. Ords. 1987, § 35.256)

State law reference-Similar provisions, MCL 247.64(4).

Sec. 26-119. Limit on expenditures.

The commissioner of noxious weeds shall apply the best known means and use the utmost diligence in eradicating noxious weeds; but he shall not have power to expend in work or materials more than \$25.00 on anyone infested tract without the advice and consent, in writing, of the supervisor of the township. (Camp. Ords. 1987, § 35.257)

State law reference-Similar provisions, MCL 247.65.

Sec. 26-120. Prosecution of violators.

It shall be the duty of the commissioner of noxious weeds to prosecute or complain to the proper authorities of any person who may violate any law now existing, or which may hereafter be passed, on the subject of noxious weeds.

(Camp. Ords. 1987, § 35.258)

State law reference-Similar provisions, MCL 247.66.

Sec. 26-121. Applicable statutes.

Any rights or remedies granted to townships and, in particular, to Tittabawassee Township under Public Act No. 359 of 1941 (MCL 247.61 et seq.), and not otherwise incorporated in this article, are hereby adopted by reference, it being the intention of the township board to provide a plan of control and eradication of noxious weeds for the township by the use of this article and such state statute, and any other state statutes which may be applicable in whole or in part to the township.

(Camp. Ords. 1987, § 35.259)

Sec. 26-122. Lawn maintenance.

(a) *Title.* This section shall be known and cited as the Tittabawassee Township Lawn Maintenance Ordinance.

(b) *Application.* This section applies to residential and business parcels, whether occupied or not, provided that such parcels have a building intended for the shelter, housing or enclosure of persons, animals or property.

(c) *Nuisance.* Grass or plant growth in excess of eight inches in height shall be deemed a nuisance per se, on such parcels.

(d) *Duty to cut.* It shall be the duty of all owners and occupants of parcels having a building intended for the shelter, housing or enclosure of persons, animals or property to cut and maintain any grass or plant growth on said parcel to a height less than eight inches.

(e) *Violation.*

(1) The township, through its ordinance enforcement officer, shall notify by first class mail the owner and/or occupant of a parcel that is in violation of this section. If the ordinance enforcement officer cannot notify the owner or occupant of the parcel, then notice may be posted in a conspicuous place on a building on the parcel. The owner or occupant shall be given ten days in which to correct the violation.

(2) If the owner or occupant does not correct the violation within the ten-day period, the township shall have the right to enter upon the subject property, or contract with others, to cut the grass or plant growth and charge the expense of the cutting to the owner or occupant. The township shall send the billing statement for the cutting to the owner or occupant for payment. If the owner or occupant does not pay the amount due and owing within 30 days from the date of billing, the township shall place a lien on the property in the amount of the billing statement. The lien shall be enforceable as a tax lien against the property and to be collected in the same manner as are general property taxes and assessments on the township's tax rolls.

(Ord. No. 07-07, §§ 1-5, 10-23-2007)

Secs. 26-123-26-150. Reserved.

ARTICLE VI. NOISE*

Sec. 26-151. Unlawful acts; public nuisances.

It shall be unlawful and it shall be deemed a public nuisance for any person to unreasonably make, continue, or cause to be made or continued any noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, or that injures or endangers the health, peace or safety of

***Cross reference**-Animal noise, nuisance, § 10-1.

State law reference-Motor vehicle mufflers, MCL 257.707 et seq.

the public within the township. The following acts, among others, are declared to be unlawful noises in violation of this section and are deemed to be public nuisances per se, but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Radios) phonographs and musical instruments.* Operating, playing, or permitting the operating or playing of any radio, phonograph, television set, amplified or unamplified musical instrument, drum, loudspeaker, tape recorder or other sound-producing device, in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, hospital or residence. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly and clearly audible on real property or in a dwelling unit other than that from which the noise originates or emanates shall be prima facie evidence of a violation of this section.
- (2) *Shouting and whistling.* Yelling, shouting, hooting, whistling, singing or making any other loud noises on the public streets, sidewalks, bike pathways, or other streets or paths located within the township between the hours of 11:00 p.m. and 7:00 a.m. the following day, or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, hospital or residence.
- (3) *Construction.* Operating or permitting the operation of any tools or equipment used in the construction, excavation, demolition, alteration or repair of any building, street or highway between the hours of 9:00 p.m. and 6:00 a.m. the following day, Monday through Saturday, and in between the hours of 9:00 p.m. Saturday and 8:00 a.m. the following Sunday, such that the sound therefrom is plainly audible in any dwelling, hotel, hospital, office or residence, or on any residential property other than the property from which the noise emanates or originates, unless a variance therefor is first obtained from the township supervisor.
- (4) *Engines.* Operating or permitting the operation of any steam engine or internal combustion engine, whether stationary or mobile, so as to annoy or disturb the quiet, comfort or repose of a person of normal sensitivities in any office, dwelling, hotel, hospital or residence. This subsection shall not prohibit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas, between the hours of 7:00 a.m. and 9:00 p.m. the same

day, nor shall it prohibit the operation of snow removal equipment at any time necessary. This subsection shall not prohibit the operation of a farm implement or state-licensed motor vehicle in a manner expressly permitted by state law.

(Ord. No. 93-2-NO, § 1, 4-27-1993)

Sec. 26-152. "Person" defined.

In addition to its normal meaning, the term "person," as used in this article, means a person who causes or makes an unlawful noise, or a person who is in control of the property or premises from which an unlawful noise originates or emanates.

(Ord. No. 93-2-NO, § 2, 4-27-1993)

Sec. 26-153. Exceptions for emergency.

The provisions of this article shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

(Ord. No. 93-2-NO, § 3, 4-27-1993)

Sec. 26-154. Variance to permit noise during prohibited hours.

The township supervisor may grant an applicant a variance of this article to permit construction noises and outdoor events during hours otherwise prohibited under this article, after notice and hearing, upon a showing that compliance with this article would constitute an unreasonable hardship on the applicant, community, or other persons.

(Ord. No. 93-2-NO, § 4, 4-27-1993)

Sec. 26-155. Abatement of public nuisance.

The township supervisor may act to abate a public nuisance, as provided by law, without giving notice if the public health, safety or welfare requires immediate action. The cost of abating such nuisance shall be charged as to a person found to be in violation of this article.

(Ord. No. 93-2-NO, § 5, 4-27-1993)

Sec. 26-156. Violation; penalty.

In addition to the civil rights and remedies provided in this article to the township, any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and punished as provided in section 1-7.

(Ord. No. 93-2-NO, § 6, 4-27-1993)

Sec. 26-157. Use of appearance tickets and procedures in arrests and prosecutions.

In all arrests and prosecutions for violation of this article, appearance tickets and the appropriate procedures set forth in Public Act No. 147 of 1968 (MCL 764.9a et seq.) may be used whenever appropriate.

(Ord. No. 93-2-NO, § 7, 4-27-1993)

Secs. 26-158-26-185. Reserved.

ARTICLE VII. NATURAL RESOURCE RECOVERY

Sec. 26-186. Intent and purpose.

This article is intended to supplement the township zoning ordinance by providing regulations for the excavation, extraction and mining of natural resources; for the rehabilitation and/or reclamation of natural resource recovery areas; and for the stockpiling of natural resource materials. This article is further intended to provide for the licensing, fees and administration of this article and to provide for the reasonable use of township land in respect to these objectives. This article is also intended to promote the safety, health and welfare of the township.

(Comp. Ords. 1987, § 25.361)

Sec. 26-187. Construction; application; conflict.

(a) This article shall be construed in such a manner as to best serve its purpose and those of the township's comprehensive general development plan. In applying this article, the requirements shall be held to a minimum for the promotion of the public health, safety and welfare.

(b) The provisions of this article shall be construed in such a manner as to make such provisions compatible and consistent with each other; provided, however, that where any inconsistency or conflict cannot be avoided, the most restrictive provision shall control and prevail.

(Comp. Ords. 1987, § 25.363)

Sec. 26-188. Language and definitions.

(a) *Rules of language.* The following rules of language shall apply to this article:

Building or structure. A building or structure includes any part thereof.

Used for: The term "used for" includes arranged for, designed for, intended for, maintained for, or occupied for.

(b) *Definitions.* The following terms, when used in this article, shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning:

Board of appeals means that board established by the township board, pursuant to Public Act No. 184 of 1943 (MCL 125.271 et seq.), for the purpose of hearing and ruling on appeals, variances and exceptions.

Commission means the township planning commission established by the township board pursuant to Public Act No. 168 of 1959 (MCL 125.321 et seq.).

Excavation means the breaking of ground or the altering of the natural topography, except that it does not include farming, gardening, ground care or landscape activities.

Hazardous waste means waste or a combination of wastes which may:

- (1) Cause or contribute to an increase in mortality;
- (2) Cause an increase in incapacitating or other illnesses; or
- (3) Pose a hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise mismanaged.

Industrial waste means waste substances or any combination of substances resulting from manufacturing, trade, business, agricultural process or natural resource operation.

Mining means the extraction, excavation, processing, storage, or transportation of natural resource materials on a site.

Natural resource materials means soils, clay, sand, gravel, overburden, minerals, chemicals or materials from which any of these can be processed.

Sewage means refuse liquids or waste matter carried in liquids from any source.

Special solid waste means hazardous wastes, industrial wastes, sewage or sludges and sewage residues, whether or not compounded, mixed, combined, bound, contained within, bonded to, captured, fixed by, or entrained within any other material by any process.

Use means the purpose for which the land or building is arranged, designed or intended to be used. (Comp. Ords. 1987, §§ 25.370-25.372)

Cross reference-Definitions generally, § 1-2.

Sec. 26-189. Permitted districts.

Natural resource recovery operations and rehabilitation and/or. reclamation of natural resource recovery areas shall be permitted in any zoning district described in the township zoning ordinance, except residential.

(Comp. Ords. 1987, § 25.381)

Sec. 26-190. Permitted uses.

The following uses shall be permitted under this article:

- (1) Exploration and testing of the surface and subsurface.
- (2) Excavation, extraction or mining of natural resources.
- (3) Use of machinery required for any permitted use.
- (4) Stockpiling of natural resource materials.
- (5) Construction of structures required for any permitted use.
- (6) Construction of roads required for any permitted use.
- (7) Construction and maintenance of any structures or site changes required for the issuance of a license or to operate a natural resource recovery operation.

(8) Construction of structures, facilities, filling, grading, and planting required for the rehabilitation and/or reclamation of a natural resource recovery area.
 (Comp. Ords. 1987, § 25.382)

Sec. 26-191. Conditionally permitted uses.

The following uses shall be conditionally permitted under this article:

- (1) Sanitary landfills, provided that:
 - a. The fill is required for the rehabilitation and/or reclamation of a natural resource recovery area;
 - b. The fill is licensed under part 115 of Public Act No. 451 of 1994 (MCL 324.101 et seq.);
 - c. On-site roads are paved to the dumping area or 500 feet, whichever is less; and
 - d. Provisions for sanitary landfill of the township zoning ordinance are complied with.
- (2) Asphalt and/or concrete batch plants, provided that:
 - a. Operation of the plant is in connection with the natural resource material being excavated, extracted, or mined on the site, and such plant can only remain in operation so long as the excavation, extraction or mining is continued.
 - b. The plant is not closer than 500 feet to any property line, except those of an industrial M-2 zoning district.

(Comp. Ords. 1987, §_25.383)

Sec. 26-192. Exceptions.

The following conditions shall be exceptions to this article:

- (1) Where a natural resource recovery operation will not result in reducing or increasing the elevation of the land from which a natural resource is anticipated above or below the elevation of adjacent rights-of-way or abutting properties.
- (2) Where excavation, extraction or mining are in connection with construction for which a building permit has been issued.
- (3) Where stockpiling of natural resource materials is necessary to a use permitted in any zoning district.
- (4) Where the registered parcel of land, at the time of enactment of this article, is not more than one acre, provided that licensing, rehabilitation or reclamation provisions of this article shall be complied with and that such one-acre parcels are not multiple and contiguous.
- (5) Where excavation, extraction or mining are in connection with a government capital improvement program.

- (6) Where excavation, extraction or mining are in connection with improvements to a public right-of-way or where such improvements will lead to acceptance of a right-of-way as public.
- (7) Where excavation, extraction or mining are in connection with a public service or utility.
- (8) Where excavation, extraction or mining are in connection with improvements for a subdivision approved by the commission.
- (9) Where exploration or testing of the surface or subsurface is made; except that test holes shall be properly plugged and the site returned to its original condition.
(Comp. Ords. 1987, § 25.384)

Sec. 26-193. Pre-existing operations.

(a) Pre-existing operations are not exempt from the licensing and rehabilitation and/or reclamation requirements of this article.

(b) Pre-existing operation or operations of less than one acre are exempt from requirements of this article relating to area of operation, location, environmental review, screening, and fencing, so long as the operation remains the same and the site is not enlarged.
(Comp. Ords. 1987, § 25.385)

Sec. 26-194. Special use permits.

(a) The commission is empowered to grant special use permits, as defined in the township zoning ordinance, for the uses described in sections 26-191 and 26-192. The granting of such permits shall be in conformance with the provisions of this article and the rules of the commission.

(b) Application forms shall be obtained from the township clerk or designated official. These forms shall contain the following information:

- (1) Name of the owner of the land involved.
- (2) Name and address of the applicant.
- (3) Name of the person who will be conducting the operation.
- (4) Legal description of the site.
- (5) Description of materials involved.
- (6) Type of operation intended.
- (7) Haul routes.
- (8) Description of methods, facilities and equipment to be used.
- (9) Phasing of the operation and estimated length of time for each phase.

- (10) Topographical survey of the site, drawn to scale by a registered engineer or land surveyor, showing information specified by the enforcing officer of the township zoning ordinance.
- (11) As an overlay for the topographical survey, a drawing depicting areas for excavation, extraction or mining, stockpiling, processing plants, maintenance, fences, screens, roads and other areas necessary to the operation.
- (12) Proposed plan of operation in writing.
- (13) As an overlay for the topographical survey, a drawing depicting proposed contours for rehabilitating and/or reclaiming, and landscaping and other improvements proposed for the completed project.
- (14) Written description of rehabilitation and/or reclamation methods, including materials and plantings proposed.
- (15) Environmental review containing analyses of physical, natural, and biological elements that may be changed by the operation. The review shall be made by a person qualified to conduct such a review and who has no conflict of interest in the matter. The commission shall require the applicant to mitigate the adverse impacts at no cost to the township.
- (16) Engineer's report as to the amount of material to be removed from the site, by type of material.

(c) Applications and exhibits shall be subject to the site development provisions of the township zoning ordinance.

(d) Based on the following rating system, an application for a use allowed by this article which receives a total score of 23 or more shall be granted. A total score of between 18 and 22 shall be considered as marginal and subject to additional restrictions as proposed by the commission. A total score of less than 18 shall not be considered as acceptable for a use described in this article.

Environmental Relationship—60% of weight.

Relationship to residential areas.

No residences are located within one-half mile of any boundary of the proposed site.....	10 points
The number of dwelling units within one mile of any boundary of the proposed site shall not exceed a density of ten dwelling units per square mile.....	6 points
The number of dwelling units within one mile of any boundary of the proposed site shall not exceed a density of 20 dwelling units per square mile.....	3 points
The number of dwelling units within one mile of any boundary of the proposed site exceeds a density of 20 dwelling units per square mile.....	0 points

Ecologically significant areas.

- There is no area of ecological significance within the proposed site such as, but not limited to, a stream, river, course, swamp, marsh, bog, water body or other natural features offering excellent habitat for wildlife..... 8 points
- The site may have one or more areas of ecological significance but the plan of operation shows no detrimental effect..... 8 points
- Areas of ecological significance will be permanently damaged..... 0 points

Agricultural capabilities and uses.

- The land is presently not actively farmed and the soils are rated III or greater classification according to the U.S. Department of Agriculture's land capability classes..... 5 points
- The land is presently actively farmed and the soils are rate III or greater as hereinbefore described..... 3 points
- The soils capability classification is rate I or II as hereinbefore described... 0 points

Historic, cultural, or natural landmarks.

- None within the side..... 4 points
- Areas within the site will not be affected..... 2 points
- Areas within the site will be affected 0 points

Noise levels.

- No activity on the site when operating will result in noise levels above 70 dB at the property lived of the site, except for a condition which is not typical of the operation, such as accidental noise..... 5 points
- The activities on the site may cause noise levels to exceed 70dB at the property lives of the site but will otherwise comply with section 16.15 of the township zoning ordinance..... 3 points
- Noise levels will exceed the provisions of section 16.15 of the zoning ordinance..... 0 points

Air pollution.

- Air pollution levels will not exceed those provided in section 16.15 of the zoning ordinance at any perimeter property line..... 5 points
- The operations on the site and transportation elements to and from the site may cause intermittent air pollution problems, but steps will be taken to eliminate the problem by artificial means..... 3 points
- The operations on the site and transportation elements to and from the site will increase air pollution problems and no measure will be guaranteed to control pollution..... 0 points

Land Use / Transportation Plans-30% of weight.

Future land use plan relationship. The site is:

- Situated within the year 2000 urbanized area or greater time frame..... 5 points
- Situated within the year 1990 urbanized area..... 3 points
- Situated within the year 1980 urbanized area..... 0 points

Relationship to future land use classification. The site is:

- Situated within an industrial or commercial area..... 5 points
- Situated in an agricultural area..... 3 points
- Situated adjacent to residential use..... 0 points

Relationship to highway network. The site is:

- Situated with direct access to a county primary road..... 5 points
- Situated within one mile of a county primary road, which road is an all-weather surface road..... 3 points
- Situated more than one mile from a county primary road..... 0 points

Resource Utility-10% of weight.

Resource need and value.

- Proposed project is intended to meet existing or immediate future needs and represents unique resource deposits..... 2 points
- Proposed project is intended to meet possible future demands and is relatively valuable due to its unique resource deposits..... 1 point
- Proposed project is not needed to meet existing or future requirements and represents commonly found material in county..... 0 points

Resource area.

- Proposed project is located in a vast resource area which will not be exhausted..... 2 points
- Proposed project is located in a substantial resource area which will be partially mined..... 1 point
- Proposed project is located in a limited resource area and will be spot mined..... 0 points

Convenience and accessibility to market.

- Easy access to a relatively close market..... 2 points
- Need for better access routes with greater distance from markets 1 point
- Major access improvements required to meet the needs of distant markets... 0 points

(Comp. Ords. 1987, § 25.386)

Sec. 26-195. Standards-Excavation, extraction and mining.

(a) Screening and fencing.

(1) Excavation, extraction and mining areas with property lines abutting residential use or residentially zoned property and public rights-of-way shall have a screen barrier.

(2) Excavation, extraction and mining areas with property lines abutting other zoning use properties, except industrial M-2, shall be fenced.

(3) Fencing and screen barriers shall conform to the requirements for same In the township zoning ordinance.

(4) Fencing and screen barriers shall be posted to indicate the danger to trespassing every 100 feet.

(b) The hours of operation in these areas shall be 6:00 a.m. to 8:00 p.m. In emergency situations, this period may be modified by the township supervisor, provided such emergency order shall not be effective for more than 72 hours.

(c) All operations shall have direct access to an arterial street as shown on the transportation plan map of the comprehensive general development plan.

(d) When operations cause materials to be deposited upon a public right-of-way, it shall be the responsibility of the owner of the operations site and/or applicant for the operation to remove such materials within 24 hours of notice from the township. In the event such notice is received from other governmental agencies, such agency may impose more restrictive time limitations.

(e) Public access roads and roads within the site shall be maintained as dust-free.

(f) All equipment and facilities brought on the site shall be operated and maintained so as to meet the performance standards of the township zoning ordinance. In an emergency, the township supervisor may grant a temporary waiver of this requirement for a period of not more than 30 days.

(g) All lighting used to illuminate the site shall be directed away from surrounding properties. Residential properties and public roads shall be shielded from direct lights.

(h) The site shall be so drained that no water is allowed to stagnate on the site and drainage from the site does not enter onto any adjacent property, except that the natural flow of water from, to and through the site shall be maintained and shall remain uncontaminated.

(i) No more than 80 acres may be used at anyone location at any one time.

(j) Provisions of the township zoning ordinance concerning natural resource recovery/earth removal shall be complied with.

(k) No excavation, extraction, mining or stockpiling shall take place closer than 500 feet from the top of the bank of a natural watercourse or county drain. From this point, the slope of any excavation or piling of materials shall be limited to three horizontal to one vertical and in such a manner as to preclude any material from entering the waterway.

(Comp. Ords. 1987, § 25.387)

Sec. 26-196. Same-Rehabilitation and reclamation.

(a) Undrained excavations shall be to a water-producing depth of at least ten feet below low water table for at least 80 percent of the water surface area.

(b) Natural drainage from, to, and through the site, prior to natural resource recovery operations, shall be maintained.

(c) Permitted fills shall be graded to preclude the retention of stagnant water.

(d) Changes in contours shall be:

(1) Not less than three horizontal to one vertical where the slope leads to water.

(2) Gently rolling to reduce erosion.

(3) In conformance with surrounding lands.

(4) Devoid of peaks and valleys.

(e) Those portions of the site not containing water shall receive topsoil, seeding, planting and other landscape features as approved by the commission.

(f) Fill for mined areas shall be nonorganic and shall not be of special solid waste materials.

(g) Upon termination of natural resource recovery operations on a major portion of a site, rehabilitation and/or reclamation of that major portion shall be commenced within 12 months.

(h) Provisions of the township zoning ordinance concerning natural resource recovery/earth removal shall be complied with.

(Comp. Ords. 1987, § 25.388)

Sec. 26-197. Same-Stockpiling.

(a) Stockpiles shall be so located and built that no material or drainage from the material will reach adjacent properties or on-site roadways.

(b) All the provisions of sections 26-195 and 26-196 shall apply.

(Comp. Ords. 1987, § 25.389)

Sec. 26-198. Bond requirements.

Prior to granting a license, the planning commission shall require a performance bond and a labor and material bond of not less than \$1,000.00 each for each acre or fraction thereof within the fenced excavation, extraction, mining or stockpiling area. Such bonds shall be made payable to the township by a

surety company, and in a form acceptable to the township, and shall be in effect until rehabilitation and/or reclamation plans, as approved by the commission, are completed to the satisfaction of the township zoning ordinance enforcing officer.

(Comp. Ords. 1987, § 25.390)

Sec. 26-199. Licenses and fees.

(a) Upon granting a license, the commission shall advise the township board to issue the license, through its clerk, for the intended use.

(b) A license may be renewed after the first of a calendar year, annually, provided the use is in operation and/or reclamation and/or rehabilitation activities, all as approved by the commission, are in process.

(c) A license shall remain in effect for the remainder of the calendar year in which it was issued.

(d) The township board may set and, from time to time, revise fees for:

(1) The original license.

(2) The renewal of a license.

(3) Natural resource materials removed from a site.

(4) Natural resource material brought onto and stockpiled at a site.

(5) Depositing in sanitary landfills.

(e) Fees and costs of retaining assistance, for the township, to determine the applicant's compliance with this article shall be paid by the applicant or they will be placed as a lien against the property involved.

(Comp. Ords. 1987, § 25.391)

Sec. 26-200. Appeals.

The board of appeals may vary the requirements of the regulations of this article so long as the intent and purpose of this article is carried out.

(Comp. Ords. 1987, § 25.400)

Sec. 26-201. Amendments.

The township board may, from time to time, on the recommendation from the commission or on petition, amend, supplement or change the regulations described in this article.

(Comp. Ords. 1987, § 25.410)

Sec. 26-202. Closing of site, license revoked for unabated violation.

In addition to fine and/or imprisonment, the township board may, in its discretion, notify the owner and/or operator of a violation and, upon failure of the owner and/or operator to abate such violation

within five days after mailing of such notice, the site on which the violation is taking place may be summarily closed, and the license therefor revoked, and the bonds may be used to effect restoration.
(Comp. Ords. 1987, § 25.422)

Sec. 26-203. Additional remedies.

The rights and remedies provided in this article are cumulative and are in addition to such -other remedies provided by law.
(Comp. Ords. 1987, § 25.424)

Chapters 27—29

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