

**MARION TOWNSHIP PLANNING COMMISSION  
AGENDA**

**REGULAR MEETING**

**March 26, 2024**

**7:30 PM**

*Virtual access instructions to participate in the meeting are posted on [www.mariontownship.com](http://www.mariontownship.com)*

MEETING WILL BE HELD IN MAIN HALL

Call to Order:

Pledge of Allegiance:

Introduction of Members:

Approval of Agenda for: March 26, 2024 Regular Meeting

Approval of Minutes from: February 13, 2024 Regular Meeting

Call for Public Comment:

Public Hearing:

New Business:

Unfinished Business:

- 1) SUP #01-24 Smith Home Based Business (revised application)
- 2) TXT#02-23 Wellhead protection LCPD comments (Final to BOT)
- 3) Proposed revisions to Sign Section
- 4) Continue discussion of affordable housing project

Special Orders:

Announcements:

Call for Public Comment:

Adjournment:

**MARION TOWNSHIP  
PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 13, 2024 / 7:30PM**

**PC MEMBERS PRESENT:** JIM ANDERSON – *CHAIRPERSON*  
CHERYL RANGE – *SECRETARY*  
BOB HANVEY  
BRUCE POWELSON

**PC MEMBERS ABSENT:** LARRY GRUNN

**OTHERS PRESENT:** DAVID HAMANN – *MARION TWP. ZONING ADMINISTRATOR*  
ZACH MICHELS – *TOWNSHIP PLANNER*  
JOHN GORMLEY – *TOWNSHIP ATTORNEY*

---

▪ **CALL TO ORDER:**

Jim Anderson called the meeting to order at 7:30 pm.

▪ **APPROVAL OF AGENDA:**

Cheryl Range made a motion to approve the February 13, 2024 agenda as presented. Bruce Powelson seconded. **4-0 MOTION CARRIED**

▪ **APPROVAL OF MINUTES:**

Cheryl Range made a motion to approve the January 23, 2024 Planning Commission minutes as amended. Bruce Powelson seconded. **4-0 MOTION CARRIED**

▪ **CALL TO PUBLIC:**

James Paulson resides at 2745 Sexton Road. James does not approve of the Home-Based Business that Mr. Christopher Smith is running at 2817 Sexton Road. James Paulson is concerned about the property values, safety and screening.

Dave Hamann explained that the first "*Call to Public*" is intended for the public to address topics that are NOT already on the meeting agenda.

▪ **PUBLIC HEARING:**

**SUP# 01-24 CHRISTOPHER SMITH SECTION 17.32 HOME-BASED BUSINESS**

Christopher Smith did not have any comments at this time.

Larry Shovan resides at 3023 Sexton Road. Larry Shovan believes that Christopher Smith's business is disrespectful to the community and he does not approve of the business location.

Troy Caldwell resides at 2891 Sexton Road. Troy is worried about the salt dome and has concerns about the fuel tank.

Gerald Mikols resides at 2129 Ridgeway Drive. Gerald is worried about the property values, increased traffic, the wellhead protection area and the maintenance of the roads.



Patricia Freidline resides at 2606 Sexton Road. Patricia has concerns about the salt dome, the months of operation, property values, screening, equipment not being stored in a building, excessive noise, increased traffic and the nuisance it is causing to the surrounding neighbors.

Jim Freidline resides at 2606 Sexton Road. Jim Freidline has concerns about the 50 tons of salt being stored on the property, property values and salt contamination issues. Jim also wants to know why it took so long for this Home-Based Business to be addressed because he has been running this business since before the summer of 2023.

Dianne Paulson resides at 2745 Sexton Road. Dianne is concerned about the salt dome, excessive noise, the storage of heavy equipment, employees yelling and screaming at each other and the property values.

Christopher Smith is operating a Home-Based Business at 2817 Sexton Road. Christopher explained that no one has previously spoken to him about any of these concerns. He is trying to be compliant and making the quickest transition possible. He is trying to address all of these matters. The salt dome is up to code per the County Drain Commission. The fuel tank has been fixed and it has been there for years. Christopher explained that he has solutions for all of these concerns.

Dianne Paulson resides at 2745 Sexton Road. Dianne stated that she was trying to be friendly and asked Mr. Smith if he was operating a business on the property and she stated that Christopher said "no".

■ **NEW BUSINESS:**

**SUP# 01-24 CHRISTOPHER SMITH SECTION 17.32 HOME BASED BUSINESS**

Dave Hamann explained that he previously met with Christopher Smith and answered all of the questions he had about our ordinance.

Zach Michels explained that this should be treated as a conditional use Home-Based Business, which is more intense than a Home Occupation. Zach read through pages 2/6 and 3/6 of the Special Use Permit Review.

Cheryl Range spoke to the Livingston County Health Department and is gathering information for the Board. She is also waiting on someone to contact her from EGLE. This should all take about two weeks.

Jim Anderson explained that the Home-Based Business ordinance needs to be followed and a completed site plan needs to be submitted for review. There are three questions that need to be answered and explained:

- What has been done to/on the property?
- What is the current condition or state of the property?
- What does the property owner plan to do with the property?

Jim Anderson explained that the neighbors appear to have valid concerns. Anderson is concerned about the noise level, increased traffic from the trucks, the hours of operation, how many employees will be on site and the wellhead protection area. Anderson stated that there needs to be more detail on the site plan about the protections in place to prevent water contamination. Anderson said there should also be a "Pollution Incident Prevention Plan" submitted. Anderson said the applicant should correct and submit an application so the Commissioners can review all of the information.

John Gormley recommended that the Planning Commissioners table further conversation on this issue so the applicant can re-submit his application along with all of the missing information. At that point, the Commissioners can make a recommendation to the Board of Trustees.

Cheryl Range asked if Christopher Smith was running his business in another location prior to the location on Sexton Road. Mr. Smith stated that for 15 years his business was located off Coon Lake and D19.



Cheryl Range made a motion to deny Christopher Smith's Special Use Permit #01-24 for a Home-Based Business. No one seconded.

Jim Anderson made a motion to postpone discussion on Christopher Smith's Special Use Permit #01-24 for a Home-Based Business, until Mr. Smith gathers and re-submits all of the requested information. Bruce Powelson seconded.

**4-0 MOTION CARRIED**

▪ **UNFINISHED BUSINESS:**

**REVIEW FLOWCHART DRAFT FOR TEXT AMENDMENT CHANGES**

John Gormley had no concerns with the Flowchart for text amendment changes.

Bruce Powelson made a motion to adopt the Flowchart for text amendment changes. Cheryl Range seconded. **4-0 MOTION CARRIED**

▪ **UNFINISHED BUSINESS:**

**CONTINUE DISCUSSION ON SIGN SECTION**

John Gormley recommended changing some of the terminology and re-categorizing the existing ordinance.

Zach Michels will make some more changes and bring back for more discussion.

▪ **UNFINISHED BUSINESS:**

**MASTER PLAN GOALS FOR ZONING ORDINANCE CHANGES**

John Gormley suggested that we clean up our language on shared/private driveways because currently it conflicts with our General Ordinance.

Zach Michels said he will begin working on our ordinance about "splits".

▪ **UNFINISHED BUSINESS:**

**AFFORDABLE HOUSING**

Bob Hanvey said there are currently no updates on this topic.

Cheryl Range said that if people cannot afford to live in Marion Township, then they should not move here.

Jim Anderson said that we should at least listen to what this group has to say.

Bruce Powelson made a motion to postpone discussion on the "Affordable Housing Group" until further notice Cheryl Range seconded. **4-0 MOTION CARRIED**

▪ **SPECIAL ORDERS:**

**RESPONSE FROM ATTORNEY ON DP AND WELLHEAD ZONING ORDINANCE**

Dave Hamann asked if the Commissioners should consider changing our ordinance now that wedding barns fall under GAMPS?

John Gormley said that the Township should not try and regulate barn weddings that offer "farm to table".

▪ **ANNOUNCEMENTS:**

Dave Hamann told the Commissioners that TXT# 01-23 DATA PROCESSING was ready to go to the Board of Trustees with a recommendation. Dave Hamann said that the Wellhead Protection language is going to the Livingston County Planning Department for review and comment.

Bruce Powelson made a motion to recommend approval of TXT# 01-23 DATA PROCESSING to the Board of Trustees. Cheryl Range seconded. **4-0 MOTION CARRIED**

Jim Anderson suggested that we postpone further discussion on the Wellhead Protection ordinance until the next Planning Commission meeting, after the Livingston County Planning Department has reviewed it.

▪ **CALL TO PUBLIC:**

Andy Herold resides at 1881 Cedar Lake Road. Andy Herold stated that he feels the Planning Commission should have denied Christopher Smith's request and should shut down his Home-Based Business.

Debra Mikols resides at 2129 Ridgewood Drive. Debra Mikols asked if the Township could notify more residents about Christopher Smith's business.

Dave Hamann explained that the residents within 300 feet of the property were notified, which is required by statute.

It was also explained that a Public Hearing notice was posted in the newspaper and on the bulletin board outside. This Public Hearing was also listed as an agenda item on the Planning Commission agenda for tonight's meeting, which is also on the Township's website.

▪ **ADJOURNMENT:**

Bruce Powelson made a motion to adjourn the Planning Commission meeting at 9:20pm. Cheryl Range seconded. **4-0 MOTION CARRIED**

**MINUTES TAKEN BY:** Jessica S. Timberlake



## Section 17.32 Home-based Business

Revision for all areas that needed clarification per meeting.

Clarifications added to original in red. Please note that these are proposed and not how we functioned in the past but moving forward after approval.

Also, there is an open land balancing permit with Livingston County for 8a-8p that is work on the home. This is not business work. The business is done at customers' homes.

Home Occupation regulations are provided in Section 6.14. Home-based businesses are considered special uses and are therefore subject to the provisions of Article XVII, Special Use Permits, and other applicable provisions of the ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed are met.

A home-based business is an occupation, business, commercial activity, company or profession carried on by family members residing on the premises that is clearly incidental and secondary to the principal single-family residential use and has one or more of the following characteristics and is not a farm operation as defined herein:

1. The business has one or more employees who do not reside on the premises, but who work on the premises or travel to the premises to pick up business vehicles or equipment for use off the premises.
2. The business has outside storage of materials or equipment solely related to the business within a designated and screened area; and/or
3. Has vehicles related solely to the home or business.

Questions/Description	Owner/Response
<b>Local Requirements</b>	
Home-based businesses are permitted by Special Use Permit <b>Local</b> in the Rural Residential and Suburban Residential Districts.	Zoned Rural Residential

<b>Site Requirements:</b>	
A. A home-based business may be permitted in both the dwelling unit and accessory structure. The home-based business shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement; however, it may encompass the entire accessory structure. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.	Business is off site with equipment stored in accessory buildings. <b>There is a separate open land balance permit for work on property. Any Outside work for business is loading or small bits of maintenance that can not be done indoors. I need to be able to use my land balancing permit without the being accused of work. My work is landscaping done on other people's homes.</b>  <b>But the business its self is off site and done on customers properties .</b>

B. The residential appearance of the dwelling shall not be altered in order to conduct the home-based business.	Residential dwelling not altered
C. The home-based business shall be clearly secondary and incidental to the use of the dwelling as a place of residence and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.	Home Based business is separated from dwelling Please note that there is Current improvements being done at home that is not business activity by balancing land for personal enjoyment and improvement for home.
D. All of the activities on the property related to equipment and vehicle repair, cleaning, painting and maintenance associated with the home-based business shall be carried on indoors.	All activities are performed indoors, except for loading machinery and salt.
E. Storage and use of combustible, toxic or hazardous material associated with the homebased business shall be done in a manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.	Very limited use of chemicals and all materials are handled and stored with the utmost care and in compliance with state and federal regulations. PIPP is in place and registered with DEQ. Find attached documents of adjustment made a PIPP in place.
F. Solid or liquid refuse or waste or hazardous waste generated by the home-based business shall be safely and properly disposed of in a manner in full compliance with all federal, state and other governmental requirements of any such materials.	All oil and antifreeze is disposed at Livingston Waste Collection sites.
G. In no case will radioactive, medical, or biomedical chemicals or materials waste be received, used, processed or stored on the site of the home-based business. . No equipment or process shall be used in such home-based business that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site. I. The home-based business shall be conducted so it does not constitute a nuisance or annoyance to	No radioactive/medical/biomedical chemicals or materials used.



<p>the residents of adjoining properties due to noise, smoke, odor, electrical disturbance or night lighting, or the creation of unreasonable traffic to the premises.</p>	<p>We will not conduct any noise disturbances or fumes/glazes/odors/electrical fluctuations to surrounding properties.</p> <p>Business-related work is all down off site with only loading on equipment and tools done on site.</p>
<p>J. A resident of the dwelling on the parcel shall be actively and personally engaged in and responsible for all home occupation operations. The number of non-resident employees who can be employed by a home-based business shall be regulated by the size of the parcel containing the business as follows: Minimum Parcel Size Maximum Number of Non-Resident Employees Up to 6 acres 1 6 acres and less than 10 acres 2 10 acres and less than 12 acres 3 12 or more acres 4 The Planning Commission may recommend or the Township Board may, in its discretion, allow a greater number of non-resident employees than those shown in the table above, where the operator of the business can provide clear and convincing evidence that doing so will not interfere with the principal single-family residential use of the premises and also the surrounding area, and further, only where the non-resident employees travel to the premises to pick up business vehicles or equipment for use off the premises. In the event the home-based business premises are split or otherwise reduced in acreage, the operator will immediately be limited to the number of non-resident employees allowed on the remaining home-based business premises as shown in the table above, unless the operator seeks a new Special Use Permit on the remaining premises within 90 days of the split or reduction in acreage. In the new Special Use Permit, the Planning Commission may recommend or the Township Board may in its discretion reduce the number of non-resident employees allowed on the remaining premises.</p>	<p>The acreage is under 6. All employees over 1 will meet on Job Sites and return to the house only to pick up/ or drop off a piece of equipment.</p> <p>1 nonresident employee will meet at residence others will drive to job site or take work truck home. That 1 nonresidential employee will park their personal vehicle and use a business vehicle on site per ordinance.</p>
<p>K. Outdoor storage of materials and equipment involved in the business is permitted provided it</p>	<p>Measures are in place and process to shield any visibility from the road. Currently working on a</p>



is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the recommendation of the Planning Commission and approval of the Township Board and shall include, but are not limited to, one or more of the following: a solid fence no more than six feet in height; plantings that are at least five feet in height at planting and will provide an adequate year-round screen; the topography of the site; existing vegetation on the site; or the screening is provided by existing buildings.	<p>berm north Street side of property. With planting going in on the south side.</p> <p>Per site plan, we have established we are removing the berm and planting trees per ordinance of 20ft spacing. They are drawn on site plan with a total of 13 evergreens going in. We have removed asking for another building at this time.</p>
L. The home-based business shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.	Business is licensed and insured, and all work is done off premises.
M. Home-based business approval is not transferable with the sale, rental or lease of the dwelling unit.	
N. Home-based businesses are allowed signage. See Article XV Signage	No signage needed; no customers visit the home base business.
O. Visitors, customers and deliveries shall not exceed a total of twelve (12) during a single day, 7am – 7pm. The Planning Commission may recommend, or the Township Board may modify this standard in the case where the Planning Commission or the Township Board determines that the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the home-based business in volumes in excess of that which is normally associated with a single-family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly-sized vehicles. The Township Board may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the parcel, the proximity of nearby residences, and road and dust conditions, nor unreasonably	<p>No business visitors or customers will visit the home. Also, any business-related deliveries will never exceed 12 in a day.</p> <p>Deliveries are rare and no customers visit home.</p> <p>No excessive traffic due to no business visitors or customers visiting the site. Which includes no addition parking needed.</p>

interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by subsection below.	
P. In no case shall more than eight (8) motor vehicles be temporarily or permanently parked or located outdoors, including vehicles owned or used by residents of the dwelling and employees of the business. The Township Board may decrease the above standard in the case where the Township Board determines that, without such reduction in the standard, the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. The Township Board may require screening of parking areas to minimize negative impacts on neighboring properties.	<p>Currently have 4 trucks for business and 2 personal for myself, and 1 employee vehicle.</p> <p>All trucks are stored outside of visibility for the road and kept for negative impacting neighbors' views. <b>Still working on adjusting the visibility with an open land balancing permit until July. I need to be able to do work on my own property without people thinking it is for my business. The land balancing permit is form 8a-8p.</b></p> <p><b>Per site plan attached with will be planting trees and parking strategically to minimize visibility.</b></p>

Performance Standards:	
<p>Prior to recommending approval, the Planning Commission shall determine that the proposed home-based business is not incompatible with existing land uses in the area and would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.</p> <p>A. For a home-based business, an informal site plan (does not need to comply with the requirements found in Article XVIII Site Plan Review) or plot plan must be submitted for review and recommendation by the Marion Township Planning Commission. The site plan shall be to scale and need only illustrate the following: 1) Owner's name, parcel identification (tax ID#) and address. 2) An 11 x 17-inch color aerial photograph of the site area and surrounding areas showing overlaying property lines with contour lines and the proposed site layout with dimensions. (available at Livingston County GIS). 3) Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the home-based business, subject property setbacks as well</p>	<p>Attached is special use permit and site review for zoning.</p> <p><b>Attached is a new site plan done by Boss engineering with the proposed landscape screening per zoning ordinance.</b></p> <p><b>No additional building at this time. No exterior lights to be installed.</b></p> <p><b>Will do what ever is necessary to make an dwelling harmonious and working an fixing all site lines.</b></p>



as distances from the proposed home-based business location on-site to adjacent property lines. 4) Location of driveways, off-street parking areas & delivery and storage areas. 5) Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties, 6) The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the home-based business.	
B. In addition to the information required in this section and the site plan described above, the applicant shall submit a detailed description of the nature of the home-based business, which shall clearly specify the following minimum features: 1) A detailed description of the character of the home-based business including but not limited to the service or product offered and the typical daily schedule of activities of such business. 2) The type and frequency of vehicular traffic to be generated by the home-based business. The maximum number of vehicles to be parked or otherwise located outdoors including vehicles owned or used by residents of the dwelling and employees of the home-based business. 3) The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.	<p><b>Bulk of operations</b> - Lawn and landscape maintenance services performed off site during seasonal months March- November depending on weather.</p> <p>8am – 6pm</p> <p><b>Winter Operations of Nov-Feb are limited and are constantly being adapted to on going conditions.</b></p>
C. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.	<b>Inserted clarification in red for any concerns or questions that arose.</b>
D. Any approval of a home-based business, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, an	



N 1/4 COR  
SEC. 16  
T2N-R4E

S40°56'00"E 1322.63' (0) WCGT 1321.52' (0)



THE LOCATION AND ELEVATION OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THESE DRAWINGS ARE ONLY APPROXIMATE. NO GUARANTEE IS OTHER EXPRESSED OR IMPLIED AS TO THE COMPLETION OF ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE ACTUAL LOCATION AND DEPTH OF EXISTING UTILITIES AND PROPOSED UTILITY CROSSINGS IN THE FIELD PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL NOTIFY THE OWNER IF ANY CONFLICTS AND WRINKS OR IF THE LOCATION OR DEPTH DIFFERS SIGNIFICANTLY FROM THE PLANS.

1 OF 1

[illegible]

**DEBOSS**  
Engineering  
Engineers Surveyors Planners Landscape Architects  
3121 E. GRAND RIVER AVE.  
HOWELL, MI. 48843  
517.546.4836 FAX 517.548.1670



## POLLUTION INCIDENT PREVENTION PLAN (PIPP)

### I. Identification Information

a. Location/Mailing Address:

Timberline Outdoor Services 2718 Sexton Rd  
Howell MI, 48843  
Phone 517-375-0358 Business 517-672-9419

b. Spill Coordinators and cell phones to be called if have a release:

1. Chris Smith (Owner) 517-375-0358, Spill Coordinator
2. Sarah Smith 517-672-9419, Alternate Spill Coordinator 1  
if Chris 517-375-0358 Alternate Spill Coordinator 2 if Chris is not  
available Sarah Smith 517-672-9419

c. Location Map attached at end of papers d. Facility Operations: Office, maintenance shop, equipment storage building, and onsite storage of polluting materials

Michigan Department of Environmental Quality

Peas Hotline 800-292-4706

### II. Materials Stored

a. Solid Salt Max. 50 tons, salt storage building Salt is the only material that exceeds threshold planning quantities.

e. Bulk Gasoline Max. 600 gal., two 300 gallon above ground tanks with extra containments being installed by 3/22/24 1 tank is 87 GAS-ETHANOL 1 tank is low sulfur Deisel

### III. Storage/Buildings

a. Above Ground Gasoline Storage Tanks – new 2022 Consists of two 550 gal. stainless steel tanks. Secondary containment consists of dual wall construction with leak detection system. Corrigan is supply second containment – Receipt attached

b. Salt Storage Building – built 2023 Concrete Bin Block construction with concrete curbed pad. Covered loading/unloading area with concrete pad sloped to center. Drains permanently blocked off to allow collection of snowmelt and rain.

c. Annual employee training on spill prevention and cleanup, new employees trained before operating equipment.

b. Weekly inspections of site looking for any signs of releases.

c. Procedures put in place to minimize spills while loading/unloading. We also will have a hydro vac trailer to vacuum any spills along with skid steers to scrap spills

d. Minor spills will be contained and cleaned up. Soak up liquids with absorbents like clay or sand. If no free liquid is put in trash if approved by waste disposal company. Sweep up spilled salt and use for deicing.

e. Large spills and/or road accidents where materials got into water, call cleanup contractor.

### Spill Coordinator will report the following spills:

1. Salt spills over 50 pounds or 50 gallons of brine onto the ground or into water: Call MDEQ PEAS and 911 as required by Part 5 rules

2. Gasoline release of 32 gallons or more onto the ground: Call MDEQ PEAS as required by Part 201 (Note: See calculation example at <http://www.deq.state.mi.us/documents/deq-ess-sara-releasecalcs.pdf>)

3. Any amount of oil or fuel that reaches surface water or shorelines: Call MDEQ PEAS and the National Response Center as required by the Clean Water Act and Part 31.

4. Any spill that they are in doubt about reporting: Call MDEQ PEAS.

5. Within 10 days of release, submit a written spill report for reportable releases to:

i MDEQ Water Bureau Field Operations Chief, PO Box 30273, Lansing MI 48909-7773

Note: the optional report form EQP3465 is at [http://www.michigan.gov/deq/0,1607,7-135-3307\\_29894\\_5959-20341--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3307_29894_5959-20341--,00.html) The DEQ may request other follow-up reports depending on the situation.

V. Emergency Numbers the Spill Coordinator is to contact:

a. MDEQ Pollution Emergency Alerting System 800-292-4706

b. MDEQ District Office Lansing MI 517-284-6651

c. Howell Fire, Police, and EMS 911

Spill Contractor:

Young's Environmental Emergency number 1-800-496-8647

**Flint, Michigan (Corporate Headquarters)**

G-5305 N Dort Hwy

Flint, MI 48505

Phone: (810) 789-7155

Fax: (810) 789-3606

**Republic Services Emergency Response**

**800.899.4672**

Belleville Facility Landfill

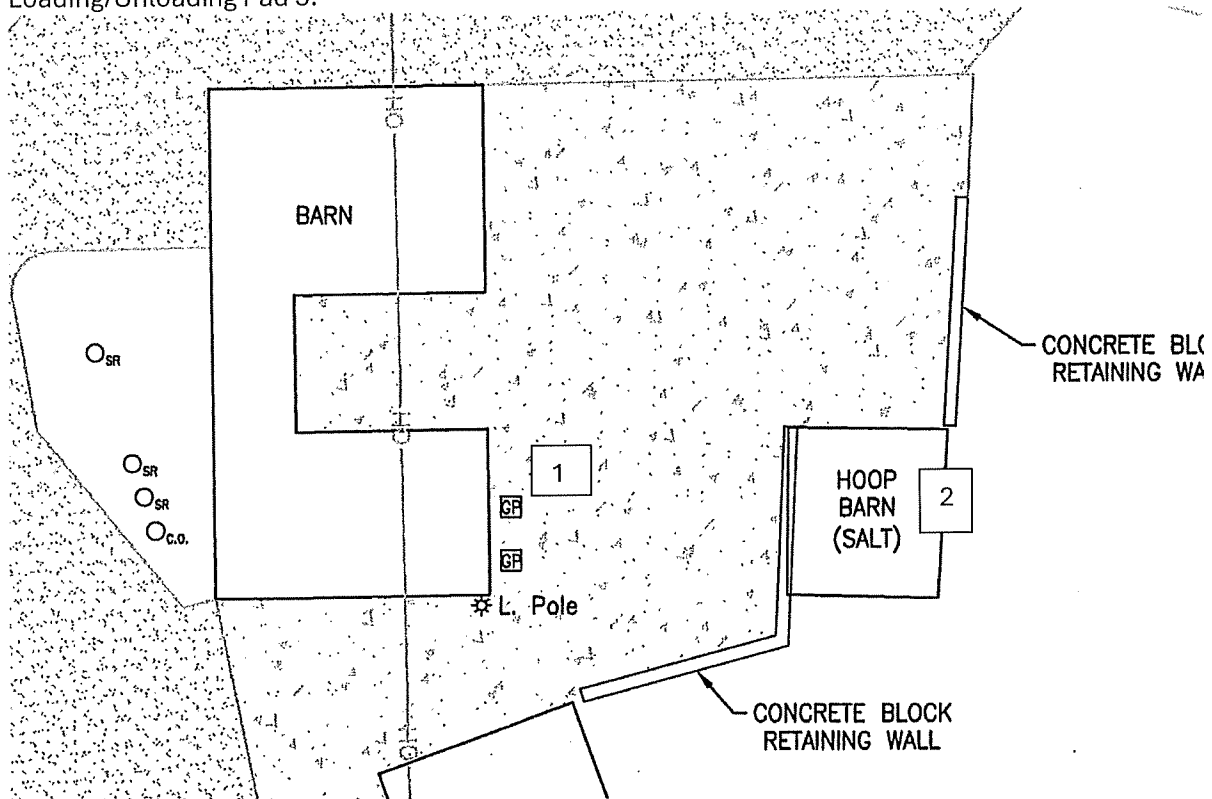
49350 North I-94 Service Drive

Belleville, MI

734.699.6265



Legend: 1. Aboveground Gasoline Storage tanks2. Salt Storage Building with Covered Salt Loading/Unloading Pad 5.

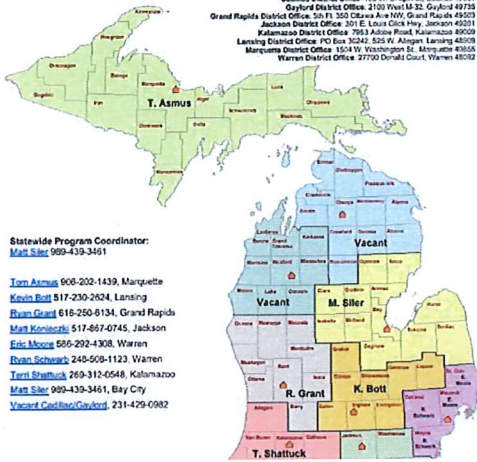


ADDITIONAL QUESTIONS? Contact the DEQ Water Bureau District Office for information about salt storage requirements. Contact the DEQ Waste and Hazardous Materials Division District Office for information about waste requirements. Unsure who to call? Contact the Environmental Assistance Center at 800-662-9278 for referral.

MSDS and all Safety data sheets are in Barn.

## Pollution Incident Prevention Plans (PIPP) & Part 5 Rules Staff

[Michigan.gov/PIPP](http://Michigan.gov/PIPP)



Sent email to our Coordinator Kevin Bott  
 That PIPP is in Place



Hydro Vac to vacuum any spills and skid steers to scoop and scrape any spills





775 N. Second • Brighton, MI 48116  
(810) 229-6323 • (800) FAST-OIL • Fax (810) 229-4970

INDUSTRIAL & AUTOMOTIVE • LUBRICANTS • HOME HEATING OILS • DIESEL • KEROSENE • GASOLINE • DEF • PROPANE

March 18, 2024

Timberlane Outdoor Services  
Attn: Chris Smith  
718 Sexton Rd  
Howell, MI 4884

Dear Chris:

Corrigan appreciates the opportunity to service you. We are pleased to offer you the following product quotation.

**Product Rental:**

PRODUCT	ORDER QUANTITY	PRE TAX RENTAL
Containment for 550 DW Tanks	2 @ \$275.00 each	\$550.00(monthly fee)
Delivery	1 @ \$150.00 each	\$150.00 (one-time fee)

**TERMS OF SERVICE**

Invoices will have an environmental fee of \$9.95 per delivery.  
Lead time: 3-5 business days for equipment,  
Payment terms: NET 2 Days  
Ref: E24050  
Equipment pricing is subject to review in 30 days.  
As per agreement containments estimated delivery by the end of week.

Orders may be placed via email through [orders@corriganoil.com](mailto:orders@corriganoil.com) or by phone at (800) FAST OIL. We thank you for the opportunity and look forward to further discussion.



## PIPP COMPLETENESS REVIEW CHECKLIST

This checklist is provided to help identify that the minimum requirements included in Rule 323.2006 that must be addressed in the PIPP along with a few recommended items to include. Include components that are specific to the facility's pollution prevention methods and emergency response. It is not required to provide the information in the order presented. This checklist does not address all the requirements that may be needed to be included if preparing an Integrated Contingency Plan (ICP) as that will vary with the other planning regulation requirements.

### **IN THE PLAN? I: Facility Identification Information Rule 6(1)(a)**

**Yes No N/A Identify the following information about the facility:**

- |                                     |                          |                          |   |
|-------------------------------------|--------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Facility name  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Facility owner   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Mailing address  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Street address (if different from mailing address)   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Facility telephone number  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 6. 24-Hour emergency telephone number(s) It is recommended to list coordinator's office, home, cell phone, pager, etc.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 7. Designated spill prevention and control coordinator. It is recommended to also have an alternate contact.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 8. Name of person(s) responsible for on-site spill prevention and control (if different from coordinator). It is recommended to also identify an alternate contact. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 9. Procedures that will be used to alert individuals within the facility of an emergency at the facility:   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | a. Spill prevention and control coordinator   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | b. Person(s) responsible for on-site spill prevention and control if different from coordinator, and  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | c. Other people in the facility about the emergency including employees, visitors, contractors, etc.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10. Map showing facility relative to the surrounding area, include thoroughfares.   |

### **II: Notification Procedures to Entities Outside of Facility Rule 6(1)(b) and Part 31 Section 3111b**

**Yes No N/A Identify the reporting procedures that will be used to notify entities off-site. At a minimum, include notification to the following:**

- |                                     |                          |                          |  |
|-------------------------------------|--------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Michigan Department of Environmental Quality  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | a. PEAS Hotline 800-292-4706   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | b. District office during business hours (recommended)   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. U.S. Coast Guard - National Response Center 800-424-8802  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. 911 or if that service not available, then contact your community's primary public safety answering point   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Local emergency planning committee (check if covered by calling 911)  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Local fire department (check if covered by calling 911)   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 6. Local law enforcement agency (e.g. police, sheriff's department, <u>state police</u> ) (check if covered by calling 911)  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 7. Municipal wastewater treatment plant if facility served by that plant   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 8. Spill clean-up contractor, or consulting firm, or both  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 9. Other local, state, and/or federal agencies or entities that you may be required to report releases under other regulations (required if preparing an ICP that has additional reporting requirements) |

### **III: Spill Control and Cleanup Procedures Rule 6(1)(c)**

**Yes No N/A Identify information about how the facility will control spills and conduct cleanups of releases:**

- |                                     |                          |                                     |   |
|-------------------------------------|--------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | 1. Inventory and location of spill control and clean-up equipment (type and quantity) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | a. Equipment available on-site <i>hydro vac trailer</i>                               |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | b. Equipment available off-site   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | 2. Procedures for response and cleanup  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | 3. Procedures for characterization and disposal of recovered materials                |

### **IV: Polluting Material Inventory Rule 6(1)(d)**

**Yes No N/A Include information about polluting materials typically on-site in quantities exceeding TMQs during the preceding 12 months:**

- |                                     |                          |                          |   |
|-------------------------------------|--------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Polluting Material(s) by:  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | a. Chemical Name(s), and  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | b. Product Name (e.g. Trade Name(s)), and   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | c. Chemical Abstracts Service (CAS) number  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Location where the Material Safety Data Sheets (MSDS) are kept for these polluting materials |

**Yes No N/A**

1. Aboveground and underground storage tanks
2. Floor drains (know where these floor drains lead to)
3. Loading and unloading areas, docks
4. Sumps (sump pumps)
5. On-site water supply
6. Containment structures for solid polluting materials
7. Secondary containment structures for liquid polluting materials
7. Other storage and use areas of polluting materials that do not exceed TMQs (*recommended*)
8. Other relevant site structures

Yes No N/A

[illegible]

1. Location(s)
2. Design and construction data including:
  - a. Dimensions
  - b. Construction materials (and types of coatings) used
  - c. Holding capacity
  - d. Amount of polluting material stored in that structure
3. How spilled polluting materials will be captured and removed
4. Provisions for physical security of secondary containment structure, such as:
  - a. Signage
  - b. Gates & Fences
  - c. Barriers
  - d. Other
5. Precipitation management (rain or storm water and snow accumulation) procedures
  - a. Characterization of collected precipitation
  - b. Disposal procedures
  - c. Copies of permits or exemptions authorizing discharge (i.e. from DEQ, local wastewater treatment plant)
6. Inspections and maintenance procedures

~~Yes~~ No N/A

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. Other control mechanisms at facility to prohibit or control releases
2. Provisions for general facility physical security

## Yes No N/A

[illegible]

1. PIPP completed when facility meets threshold management quantities
2. Plan is kept at the facility and available for inspection
3. Notification that PIPP or ICP has been prepared and certification of compliance with Part 5 rules sent to Water Bureau district office within 30 days of completing the PIPP or ICP
4. Notification sent to LEPC that plan is completed and available upon request
5. Notification sent to local health department that the plan is completed and available upon request
6. Copy of plan submitted to a requesting agency within 30 days after receiving the request
7. Plan is evaluated every three years and after any release requiring implementation of the plan
8. Plan is updated if any facility personnel, processes, or procedures that were included in the plan occur, or other changes are necessary to maintain compliance with rules
9. Recertification and re-notification of updates are sent to Water Bureau district office, LEPC, and local health department
10. Plan is modified within 30 days of receipt, or other DEQ provided response timeframe, of the DEQ's request to modify the plan if found to be incomplete or inadequate; submit re-notification and recertification

## Special Use Permit Review for Marion Township Planning Commission

### INTRODUCTION

Petition Number	SUP 01-24 Smith
Applicant	Christopher Smith
Request	Special use permit for a lawn and landscaping home-based business
Location	Northeastern corner of Sexton and Sexton, between Ridgewood and Jewell
Parcel Number	10-16-200-019

### PETITION SUMMARY

The applicant is requesting special use permit approval for a home-based business. The proposed use is a seasonal lawn and landscaping business and snow removal business. Home-based businesses require special use permit approval in Rural Residential (RR) zoning districts.

According to information provided by the applicant, the home-based business will:

- store equipment in accessory buildings
- not alter the character of the existing single-family dwelling
- make limited use of chemicals, in compliance with state and federal regulations
- dispose of oil and antifreeze at Livingston County Waste Collection sites
- not use radioactive, medical, or biomedical chemicals or materials
- not generate noise disturbances, fumes, glares, or electrical fluctuations
- only have 1 non-resident employee on site, with other employees only visiting to collect or return equipment
- install evergreen screening along Sexton
- not have signage
- not have any business visitors or customers
- have less than 12 business-related trips/deliveries in a day
- not require additional parking
- use 4 trucks
- provide lawn and landscape maintenance services off-site from April through November from 8:00 am through 6:00 pm



- provide 'winter operations' between November and February, with unspecified hours

Special use permit applications usually also require site plan review and approval. Home-based businesses may provide a less-formal site plan that shows: basic parcel information; existing and proposed structures; driveway, parking, and storage areas; proposed landscaping; and details of proposed additions or modifications. The Planning Commission and Township Board may require additional information during review.

A revised site plan, prepared by Boss Engineering, has been submitted. It shows the location of the hoop barn for salt storage and improved surfaces.

#### PROPERTY INFORMATION

Address	2718 Sexton
Location	Northeastern corner of Sexton and Sexton, between Ridgewood and Jewell
Parcel Numbers	10-16-200-019
Lot Area	4.52 acres ( <i>gross, includes right-of-way</i> )
Parcel Number	10-16-200-019
Frontage	~640 feet ( <i>including southern and western front lot lines</i> )
Current Zoning	Rural Residential (RR)
Existing Uses	Single-family dwelling
Future Land Use Map	Low Density Residential

#### SPECIFIC USE STANDARDS

Specific standards for home-based businesses are outlined in §17.32 Home-based Businesses.

Home-based businesses are more intensive than home occupations and are recognized as an occupation, business, commercial activity, company, or profession conducted by family members living on the property. Home-based businesses may have non-resident employees, may store equipment or materials in a screened area, or have vehicles dedicated to the activity.

There are 16 site standards for home-based business, outlined in §17.32 Site Requirements (A-P). Those standards requiring closer attention are examined below.

*The application states all activities will be performed indoors, except for loading equipment.*

*Some chemicals will be used as part of the home-based business. The applicant has provided a pollution incident prevention plan that addresses storage of salt, gasoline,*

*and diesel. The pollution incident prevention plan states that the drains in the salt storage building are blocked and the fuel storage has a secondary containment system with leak detection.*

*Home-based occupations on parcels with a lot area of up to 6 acres can have a maximum of 1 non-resident employee. Additional non-resident employees may be permitted by the Township if the operator presents clear and convincing evidence that 1) additional non-resident employees will not impact the surrounding single-family residential use and surrounding area and 2) non-resident employees are limited to visiting the premises to drop off or pick up equipment. The application states that there are more than 1 non-resident employees, but that only 1 non-resident employee will visit the site to pick up a truck.*

*Outdoor storage of materials or equipment must be screened from adjacent roads and properties. The application states that 10 evergreens will be planted along the western road right-of-way and 3 evergreens will be planted along the southern right-of-way. Additional screening is not proposed along adjacent property lines. It appears additional screening, whether fencing or plantings, may be necessary in order to ensure the outdoor activities are fully screened.*

*The application proposes limiting hours of operation to 8:00 am through 6:00 pm, March through November. This is consistent with permitted hours of operation. Hours of operation during the winter operations season are not specified. The applicant should confirm that operations will not take place outside of the proposed or permitted hours, as doing so could result in revocation of the special use permit.*

*It appears most of the other site standards for a home-based business are satisfied or could be satisfied.*

There are 4 performance standards for home-based businesses, primarily focused on application materials and review processes. Those standards requiring closer attention are examined below.

*The site plan does not show the rights-of-way, utility easements, dimensions of structures, or setbacks. That information should be added.*

*The application states that there will be 4 vehicles for the home-based business. This should be confirmed. If additional vehicles are anticipated in the future, it could require a new special use permit review and approval for the modification.*

*Approval of the special use permit for the home-based business should be in the form of a resolution, similar to a zoning map amendment resolution, to clearly document the findings and conditions of approval.*

## DECISION CONSIDERATIONS

The special use permit process is outlined in Article XVI Special Use Permits.

Unlike other special use permit applications, home-based businesses do not require full site plans.

The Planning Commission reviews special use permits at a public hearing and makes a recommendation to the Township Board, which makes the final decision.

In order to approve a special use permit, all of the bases of determination must be found to be true. These bases are defined in §16.05 Basis of Determination and are explored below.

The comments below are based on information provided in the application and through research. Additional information may be discovered or provided at the Planning Commission meeting.

1. Be harmonious with and in accordance with the general principles and objectives of the Comprehensive Plan of the Township.

*Home-based businesses are consistent with the general principles and objectives of the Master Plan, provided they do not create negative impacts on surrounding properties. It appears that additional screening may be necessary to reduce some impacts of the proposed home-based business.*

2. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

*Additional screening between the rear yard and Sexton and the adjacent properties may be necessary to maintain consistency with the character and be harmonious with the surrounding area.*

3. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will substantially improve property in the immediate vicinity and in the community as a whole.

*The pollution incident prevention plan addresses concerns related to hazardous activities. The applicant should provide updated plans with the Township and contact Livingston County and State officials to make the plan available. Conditions limiting the hours of operation should be included in the approval to mitigate disturbances to surrounding single-family residential uses.*

4. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.

*It appears likely that the proposed home-based business will be adequately served by essential public facilities and services.*



5. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

*It does not appear that the proposed home-based business would be detrimental to nearby residents or properties if activities are conducted indoors and any outdoor equipment and material storage is properly located and screened. Additional screening may be necessary.*

6. Meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.

*The proposed home-based business is a special use permit in the Rural Residential (RR) district. It may meet the specific standards if conditions are placed on the approval.*

7. Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.

*The application states that there is an open land balancing permit with Livingston County. It appears that significant portions of lawn to the west of the accessory building and in the rear yard have been improved to support the home-based business. Although not shown in the site plan, it appears up to a dozen mature trees have been removed.*

8. Ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

*It does not appear that there will be significant surface improvements that would increase stormwater runoff. Additional comment is deferred to the Township Engineer.*

9. Ensure that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

*The applicant has stated that no additional exterior lights will be installed. It's not clear if exterior lighting has already been installed to support the home-based business. This should be confirmed by the applicant. Any exterior lighting on the site should be full cut-off and directed away from adjacent properties and the road.*

10. Meet the site plan review requirements of Article XVIII. If the applicant chooses to submit a preliminary site plan, the special use permit may also be considered preliminary.

*Home-based businesses do not need to meet the full site plan requirements of Article VIII, per §17.32 Performance Standards (A). The revised informal site plan that has been submitted includes most of the required information, but this report details some additional information that should be added (rights-of-way, utility easements, building dimensions).*

11. Conform to all applicable state and federal requirements for that use.

*This should be a condition of approval.*

#### PETITION TIMELINE

The application was submitted to the Township on January 22, 2024.

The Planning Commission held a public hearing at its February 13, 2024, meeting, and postponed action for the applicant to provide additional information.

Revised application materials, including narrative and site plan, were submitted on March 19, 2024.

The application will be considered by the Planning Commission at its March 26, 2024, meeting.

Following a recommendation from the Planning Commission, the application will be forwarded to the Township Board for final action.

#### SUMMARY

The Planning Commission should review the information available and determine if the standards and criteria are satisfied or would be satisfied with conditions or direct the applicant to provide additional information.

A draft resolution has been prepared for the Planning Commission's consideration, to aid documentation of decision criteria and any desired conditions.

For special use permits, the Planning Commission provides a recommendation to the Township Board. The Township Board is the deciding authority.

We look forward to helping facilitate this process at the meeting.

---

Zach Michels

*Quality Zoning*

*Dexter, MI*

# MARION TOWNSHIP PLANNING COMMISSION

## Resolution for a Special Use Approval for a Home-based Occupation

---

A resolution to grant a **FAVORABLE/UNFAVORABLE** recommendation of an application submitted by Christopher Smith for a special use approval for a home-based business for property owned by **Christoper Smith**, located north and east of Sexton, Section 16 of Marion Township (10-16-200-019).

- 10) WHEREAS, Christopher Smith (*Applicant*), pursuant to the provisions of the Marion Township Zoning Ordinance (*Zoning Ordinance*), submitted an application for a special use for a home-based business on January 22, 2024; and
- 20) WHEREAS, the Applicant submitted a 1-page plot plan sketch for the home-based business on January 22, 2024; and
- 30) WHEREAS, the Applicant submitted a 1-page site plan on March 19, 2024, with a last revision date of March 18, 2024, a pollution incident prevention plan, and revised application answers; and
- 40) WHEREAS, the Planning Commission has received reports from Zach Michels (*Marion Township Planning Consultant/Quality Zoning*) dated February 5, 2024, and March 24, 2024; and
- 50) WHEREAS, the property is located within the Rural Residential RR zoning district; and
- 60) WHEREAS, §8.01(E)(20) of the Zoning Ordinance designates “home-based businesses” as a use permitted by special use permit; and
- 70) WHEREAS, the Marion Township Planning Commission (Planning Commission), at its February 13, 2024, meeting, held a duly-noticed public hearing for SUP 01-24 Smith and received public comment; and
- 80) WHEREAS, the Planning Commission voted to postpone action on the special use permit to allow the applicant an opportunity to provide additional materials; and
- 90) WHEREAS, the home-based business **will/will not** be harmonious with and in accordance with the general principles and objectives because of the Comprehensive Plan [Master Plan] of the Township:
  - a) **REASONS HERE**; and
- 100) WHEREAS, the home-based business **will/will not** be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended



# MARION TOWNSHIP PLANNING COMMISSION

## Resolution for a Special Use Approval for a Home-based Occupation

---

character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed because:

a) REASONS HERE; and

110) WHEREAS, the home-based business will/will not be hazardous or disturbing to existing or future uses in the same general vicinity and will substantially improve property in the immediate vicinity and in the community as a whole because:

a) REASONS HERE; and

120) WHEREAS, the home-based business will/will not be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools because:

a) REASONS HERE; and

130) WHEREAS, the home-based business will/will not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors because:

a) REASONS HERE; and

140) WHEREAS, the home-based business will/will not meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards because:

a) REASONS HERE; and

150) WHEREAS, the home-based business will/will not ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas because:

a) REASONS HERE; and

160) WHEREAS, the home-based business will/will not ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties because:

a) REASONS HERE; and

---

# MARION TOWNSHIP PLANNING COMMISSION

## Resolution for a Special Use Approval for a Home-based Occupation

---

170) WHEREAS, the home-based business **will/will not** ensure that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets because:

a) **REASONS HERE**; and

180) WHEREAS, the home-based business will not require formal site plan review and approval;

a) **REASONS HERE**; and

190) WHEREAS, the home-based business **will/will not** conform to all applicable state and federal requirements for that use because;

a) **REASONS HERE**; and

200) NOW, THEREFORE, BE IT RESOLVED, the Planning Commission, by a majority vote at a duly-noticed, regular meeting, held this 26<sup>th</sup> day of March 2024, grants a **FAVORABLE/UNFAVORABLE** recommendation of the special use permit SUP-01-24 Smith, for property located at 2718 Sexton, between Ridgewood and Jewell, Section 16 of Marion Township, (10-16-200-019), to the Applicant, subject to the conditions listed below:

a) **CONDITIONS HERE**

b) This recommendation shall not be effective until this Resolution and its conditions are accepted by the Applicant; and

210) BE IT FURTHER RESOLVED, that the Planning Commission directs the Zoning Administrator to forward this resolution and application materials to the Township Board.

Resolution offered by Planning Commissioner **NAME**.

Resolution supported by Planning Commissioner **NAME**.

# MARION TOWNSHIP PLANNING COMMISSION

## Resolution for a Special Use Approval for a Home-based Occupation

---

YES = ☒ (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

NO = ☒ (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

ABSENT = ☒ (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

ABSTAIN = ☒ (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

The Chair declared the Resolution **ADOPTED/NOT ADOPTED**.

Date: 26 March 2024

---

Larry Grunn, Chair

Date

---

Cheryl Range, Secretary

Date

These findings, conclusions, decisions, and resolution are accepted:

---

Christoper Smith

Date

Applicant



## Dave Hamann

---

**From:** John Gormley <john@gormleylaw.onmicrosoft.com>  
**Sent:** Thursday, February 1, 2024 6:53 PM  
**To:** Dave Hamann  
**Cc:** supervisor@mariontownship.com  
**Subject:** RE: Wellhead Protection Overlay Draft

Dave:

On the Well Head Protection Ordinance, do we want to consider changing the 12A.011 on enforcement to make violations perhaps be a municipal civil infraction. I recently proposed to the Board changes to the nuisance law and created a penalty ordinance. In the penalty ordinance, I created MCI, as the nuisance ordinance had MCI in it.

Otherwise, I found the ordinance satisfactory. Call with any questions.

John L. Gormley (P-53539)  
Gormley Law Offices, PLC  
101 East Grand River Ave.  
Fowlerville, MI 48836  
(517) 223-3758 (office)  
(517) 223-8233 (fax)  
(517) 719-7391 (cell)  
e-mail: [john@gormleylaw.net](mailto:john@gormleylaw.net)  
web page: <http://www.gormleylawoffices.com>

### **ONLINE BILL PAYMENT INSTRUCTIONS!!**

### **PLEASE READ BEFORE POSTING A PAYMENT!!!**

Clients Making Payments On Existing Accounts Please Use The Link In **Purple**

New Clients & New Retainer Payments Please Use The Link In **Green**

### **EXISTING ACCOUNT PAYMENT LINK**

<https://gormleylawoffice.securepayments.cardpointe.com/pay>

### **NEW CLIENT/NEW RETAINER LINK**

<https://gormleylaw.securepayments.cardpointe.com/pay?>

Notices to Recipients:



# Livingston County Department of Planning

## MEMORANDUM

Scott Barb  
AICP, PEM  
Director

Robert A. Stanford  
AICP  
Principal Planner

Martha Haglund  
Principal Planner

**TO:** Livingston County Planning Commissioners and the  
Marion Township Board of Trustees

**FROM:** Robert Stanford, Principal Planner

**DATE:** February 1, 2024

**SUBJECT:** Z-04-24 Amendments to Zoning Ordinance Articles -  
Article 3: Definitions, Article 6: General Provisions, Article  
12A: Wellhead Protection Overlay District

The Marion Township Planning Commission proposes amendments to **Article 3: Definitions, Article 6: General Provisions, and Article 12A: Wellhead Protection Overlay District** of the Marion Township Zoning Ordinance, related to the establishment of a wellhead protection overlay district, and establish procedures and enforcement for wellhead protection.

Proposed additions to existing text are noted in red underline, deletions in strikethrough.

These proposed amendments were also professionally peer reviewed as part of this County review process by Mr. Matt Bolang, Director, Livingston County Health Department, and his comments have been incorporated into this review as well.

### **BACKGROUND- Michigan's Wellhead Protection Program (WHPP)<sup>a</sup>**

The purpose of Michigan's Wellhead Protection Program (WHPP) is to protect public water supply systems (PWSS), which use ground water, from potential sources of contamination. Protection is provided by identifying the area which contributes ground water to PWSS wells, identifying sources of contamination within the area, and developing methods to manage the area and minimize the threat to the PWSS. Michigan's WHPP was developed in response to 1986 amendments to the federal Safe Drinking Water Act (SDWA). Unlike many programs throughout the country, wellhead protection is a voluntary program which is implemented on a local level through the coordination of activities by local, county, regional, and state agencies. Guidelines for the program were developed by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). Although the program is voluntary, PWSSs who choose to participate in wellhead protection must develop a local WHPP consistent with the guidelines established by the state. Local WHPPs must specifically address seven elements which include the establishment of roles and duties, wellhead protection area (WHPA) delineation, identification of potential

#### **Department Information**

**Administration Building**  
304 E. Grand River Avenue  
Suite 206  
Howell, MI 48843-2323

•  
(517) 546-7555  
Fax (517) 552-2347

•  
Web Site  
[milivcounty.gov/planning/](https://www.milivcounty.gov/planning/)

<sup>a</sup> Source: An Overview of Michigan's Wellhead Protection Program, found online at:  
<https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Programs/DWEHD/Source-Water-Assessment/Wellhead-Protection-Overview.pdf>



sources of contamination within the WHPA, development of strategies to manage potential sources and minimize threats to the PWSS, development of contingency plans for water supply emergencies, identification of procedures for the development of new well sites and incorporate them into the local WHPP, and provide opportunities for public participation. Funding for WHPP is available through a grant program designed to assist PWSSs in the development and implementation of WHPPs. The program is a 50% grant program which must be matched with 50% local funds. Grant money will be awarded to PWSSs based on a scoring system as outlined in the Grant Application.

## **SEVEN ELEMENTS OF WELLHEAD PROTECTION**

### **Roles and Responsibilities**

This element is designed to identify individuals working as a team in development and implementation of the local WHPP. While one individual is generally identified as the primary contact for the local WHPP, the establishment of roles and responsibilities requires the building of partnerships within the community and the participation of multiple individuals. Since ground water knows no political boundaries, partnerships may be developed between local, township, county, regional, and state agencies; and organizations to facilitate management of the WHPA. In an effort to develop effective partnerships, local teams may include managers at the local level (city manager, utilities superintendent, city engineer, fire chief, building inspectors, etc.), county and state agency representatives, local watershed councils, and representatives from the general public. The team can serve to provide consistency in the local WHPP as new parts of the program are addressed or team members leave. Building a team to oversee the wellhead protection process helps to ensure a continuance and continuity of the program in future years.

### **Wellhead Protection Area Delineation**

The federal SDWA defines a WHPA as "... the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field." In simpler terms, it is that area which contributes ground water to a PWSS well. Michigan's WHPP requires a hydrogeologic study to identify the contributing area. The area contributing ground water to a well may extend for miles therefore, Michigan's WHPP is based upon a ground water time-of-travel (TOT) of 10 years. The 10-year TOT provides a reasonable length of time for responding to environmental problems within the WHPA while concurrently providing a smaller area which can be reasonably managed.

### **Potential Sources of Contamination**

Michigan's WHPP requires the identification of potential sources of contamination within the WHPA. As a minimum, known and potential sites of environmental contamination should be included on a contaminant source inventory list. Known sites of environmental contamination may include leaking underground storage tanks, Superfund sites, sites of environmental contamination, and oil and gas contamination sites. Sites which represent a potential for contamination include registered underground storage tanks, hazardous waste generators, chemical storage facilities and ground water discharges. Land use associated with agricultural operations, commercial facilities, manufacturing and industrial facilities, institutional facilities, and utility companies may also be considered potential sources of contamination. Abandoned wells left improperly sealed provide a direct conduit into the ground water system through which contaminants may migrate and should be considered potential sources of contamination.

### **Wellhead Protection Area Management**

The goal of WHPA management is to provide mechanisms which will prevent existing and potential sources of contamination from reaching the public water supply well or well field. Communities are





encouraged to develop management strategies which may be unique to their situation and specific to the contaminant source inventory developed for the WHPA. Management approaches may entail a broad range of activities including facility inspections, land-use regulations, operational policies, best management practices, public information and education. Management strategies should serve to generate support and attention to the WHPA for local, county, state, and federal regulatory activities. The strategies should attempt to minimize (eliminate if possible) land use activities which pose a significant threat to the PWSS, motivate landowners within the WHPA to take appropriate steps to reduce threats to the PWSS, and provide education to residents, businesses, and industries located within the WHPA to emphasize their role in making wellhead protection work. An important aspect of wellhead protection is the general acceptance of the concept by community leaders and the development of land use and land protection measures which support wellhead protection. One means of providing for intelligent land use development is the incorporation of the wellhead protection concept and the WHPA into a community's Master Plan. Incorporation in the Master Plan aids community leaders in recognizing the extent of the WHPA and the need to set goals and objectives for community development which serve to protect the PWSS. This approach provides a mechanism for the effective use of local regulations in support of wellhead protection. Such support may come through the development of community wide zoning provisions, the development of a local site plan review process, or development of local standards for operation and maintenance of facilities located in the WHPA.

### **Contingency Plans**

As part of the local WHPP it is important that the PWSS identify an effective contingency plan for emergencies that may threaten wells serving the PWSS. The plan should identify personnel, testing equipment, materials and procedures necessary for the fast and effective mitigation of emergencies. A contingency plan should include public water supply system emergency response protocol (as required by the SDWA), notification procedures, and methods for handling emergencies based upon the nature of the emergency and the threat to the PWSS. Contingency plans should provide a course of action with an emphasis on providing a mechanism for containment in the case of chemical spills. The contingency plan should also identify alternative water supplies in the event that an emergency results in an impact to a well or wells serving the PWSS.

### **New Wells**

Wellhead protection activities provide an excellent opportunity for the assessment of the PWSS by providing information on existing ground water availability, the ability of the PWSS to meet present demands, and the susceptibility of the existing wells to contamination. Where water supply expansion, increases in water use, or susceptibility of existing wells to contamination threats warrants development of additional production facilities, a mechanism should be provided to incorporate the new facilities into the local WHPP. PWSSs which undergo expansion with the construction of new wells are strongly encouraged to incorporate the new wells into the local WHPP. WHPA delineation is easier (and cheaper) at the time of construction, wellhead protection can be used to evaluate the availability of the ground water resources in an area, and wellhead protection helps ensure that ground water resource development is occurring in areas which are not subject to contamination.

### **Public Education and Participation**

Community involvement in the development and implementation of the local WHPP helps to ensure its success and longevity. While it is best if all citizens are provided an opportunity to participate, it is essential that individuals who live, work, and own businesses in the WHPA take an active interest in the program. To generate interest in wellhead protection, communities have



focused on public education and the dissemination of wellhead protection information. Public education may be provided by presentations, at village/city/township meetings, before local boards and commissions, and at local schools. Information can be provided through wellhead protection newsletters and brochures, radio and cable television spots, and signs posted in WHPAs.

## **STAFF REVIEW**

The Marion Township Planning Commission proposes amendments to the Marion Township Zoning Ordinance to amend and add several regulatory provisions related to the establishment of a wellhead protection overlay district, and establish procedures and enforcement for wellhead protection, in the following manner:

### **ITEM 1. AMENDMENT OF ARTICLE III: DEFINITIONS**

**"Section 3.02 Definitions" of the Township Zoning Ordinance is proposed to be amended by adding the following definition to read in its entirety, as follows:**

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

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

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

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

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





## **ITEM 2. AMENDMENT OF ARTICLE VI: GENERAL PROVISIONS**

**"Section 6.27: Wellhead Protection and Hazardous Substance Overlay Zone" of the Township Zoning Ordinance is proposed to be deleted in its entirety and designated as: "reserved for future use", which shall read as follows:**

**Section 6.27 Reserved for future use.**

## **ITEM 3. AMENDMENT OF ARTICLE XIIA: WELLHEAD PROTECTION OVERLAY DISTRICT**

**An entirely new article entitled "Article XIIA: Wellhead Protection Overlay District" is proposed to be added to the Township Zoning Ordinance, which shall read as follows:**

### **ARTICLE XIIA: WELLHEAD PROTECTION OVERLAY DISTRICT**

#### **Section 12A.01 Intent**

The Wellhead Protection Overlay District is intended to provide supplemental developmental regulations in the designated wellhead protection areas to protect and preserve the surface and groundwater resources of the Township and the region from any use of land or buildings or hazardous materials that may reduce the quality or quantity of water resources; protect drinking water sources from long-term contamination; minimize economic impacts and legal liability; and recognize the importance of protecting groundwater to provide a safe drinking water supply for the Township. This Wellhead Protection Overlay District has been created in coordination with the Marion, Howell, Oceola, and Genoa Sewer and Water Authority's (MHOG) Wellhead Protection Plans drafted by Wood Environment and Infrastructure Solutions. This Wellhead Protection Overlay District was also created in conjunction with the City of Howell and Howell Township.

#### **Section 12A.02 Scope of Regulation**

The Wellhead Protection Overlay District is an overlay zoning district that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an overlay district is established, the property is located simultaneously in the two (2) districts, and the property may be developed only under the applicable conditions and requirements of both districts. In the event there is a conflict between the requirements of the two (2) districts, the requirements of the Wellhead Protection Overlay District shall prevail.

#### **Section 12A.03 District Delineation**

**A. Delineation:** The Wellhead Protection Overlay District includes all lands within the Marion, Howell, Oceola, and Genoa Sewer and Water Authority's Wellhead Protection Areas, including recharge areas of groundwater aquifers and watershed areas that lie within the wellhead protection area that now or may in the future provide public water supply. If the wellhead protection area includes a portion of the lot, the entire lot shall be considered to be within the Wellhead Protection Overlay District.





**STAFF COMMENT: Misspelling of "Genoa" in item 12A.03.A above should be corrected.**

**B. Interpretation of District Boundaries:** Where the boundaries delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show whether the property should be located in the Wellhead Protection Overlay District. At the request of the owner, the Township may engage the services of a qualified professional to determine more accurately the location and extent of an aquifer within the wellhead protection area. The Township shall charge the owner for all or a part of the investigation.

#### **Section 12A.04 Site Plan Review Required**

All proposed new or expanded structures or uses within in the Wellhead Protection Overlay District, except single-family uses, shall be subject to site plan review, pursuant to Article XVIII Site Plan Requirements.

#### **Section 12A.05 Materials to be Submitted for Site Plan Review**

In addition to the data requirements of Article XVIII Site Plan Requirements, each application for site plan review within the Wellhead Protection Overlay District shall be accompanied by, at a minimum, the following:

- A. List of Regulated Substances:** A complete list of chemicals, pesticides, fuels, and other Regulated Substances to be used or stored on the premises. Businesses that use or store such Regulated Substances shall file a management plan with the Fire Chief. The management plan shall include the following, at minimum:
1. Provisions to protect against the discharge of Regulated Substances or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures;
  2. Provisions for indoor, secured storage of Regulated Substances and wastes with impervious floor surfaces;
  3. Evidence of compliance with the rules and regulations of the Michigan Department of Environment, Great Lakes, and Energy;
  4. Drainage recharge features and provisions to prevent loss of recharge; and
  5. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- B. Service Facilities and Structures:** Location of existing and proposed service facilities and structures, above and below ground, including:
1. General location of the site within the Wellhead Protection Overlay District;
  2. Areas to be used for the storage, loading/unloading, recycling, or disposal of Regulated Substances, including interior and exterior areas;
  3. Underground storage tank locations; and





4. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

C. Water Resources: Location of existing wetlands and watercourses, including ponds and streams, on or within a quarter mile of the site.

D. Existing Contamination: Delineation of areas on the site that are known or suspected to be contaminated, together with a report on the status of site clean-up.

**STAFF and HEALTH DEPARTMENT COMMENT:** The information contained in existing contamination delineation report as referenced in item 12A.05.D. may be of interest as well to the Livingston County Health Department, Environmental Health Division and therefore, perhaps a copy of this information should be forwarded to them for their on-going record keeping efforts. Additionally, LCHD may be able to assist in site reviews where threats to groundwater or surface water are identified as a potential risk.

E. MDEQ Checklist: Completion of a Michigan Department of Environment, Great Lakes, and Energy checklist, indicating the types of environmental permits and approvals that may be needed for the project.

F. Additional Information: Any additional information determined necessary by the Zoning Administrator, Planning Commission, or Township Board to determine compliance with this Ordinance.

#### Section 12A.06 Uses Permitted By Right

Except as otherwise provided for in this Article, the uses permitted by right in the underlying zoning district are permitted by right within the Wellhead Protection Overlay District.

#### Section 12A.07 Uses Permitted by Special Use Permit

The following uses are permitted by special use permit in the Wellhead Protection Overlay District:

A. Commercial, industrial, governmental, or education uses that are allowed in the underlying district and are not prohibited in 12A.08 Prohibited Uses.

B. Any enlargement, intensification, alteration, or change of use of an existing commercial, industrial, governmental, or education use.

C. Increase of Impervious Area: The rendering impervious of more than fifteen (15) percent or 2,500 square feet of any lot, whichever is less, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of the groundwater.

D. Mining or Excavation: The mining or excavation for removal of earth, loam, sand, gravel, or other soils or mineral resources, provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table, as determined from on-site monitoring wells and historical water fluctuation data compiled by the United States Geological Survey. One (1) or more monitoring wells shall be installed by the property owner to verify groundwater elevations. This sub-section shall not apply to excavations incidental to permitted uses.





including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.

**HEALTH DEPARTMENT COMMENT:** The final paragraph of this section should be revised to read as follows:

*"...This sub-section shall not apply to excavations incidental to permitted uses, including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage ~~treatment~~ disposal."*

1. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.
2. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.
- E. **Ice or Snow Removal Chemicals:** The storage of sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for removal of ice and snow on roads, provided such chemicals are covered and located on a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- F. **Leachable Materials:** The storage of fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials, provided that such materials are stored in accordance with the manufacturer's label instructions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture and that they are used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices" and all other necessary precautions are taken to minimize adverse impact on surface and groundwater.
- G. **Commercial Fertilizers or Soil Conditioners:** The storage of commercial fertilizers or soil conditioners, provided such storage shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- H. **Liquid Regulated Substances:** The storage of all liquid Regulated Substances, provided such materials must be stored either in a freestanding container within a building or in a freestanding container above ground level with protection to contain a spill the size of the container's total storage capacity.

#### **Section 12A.08 Prohibited Uses and Substances**

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

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





3. Waste oil retention facilities.
4. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities have been approved by the Michigan Department of Environment, Great Lakes, and Energy.

B. Business or industrial uses that dispose of process wastewater on-site.

C. Solid waste landfills, dumps, landfilling, spreading or storage of sludge or septage, with the exception of disposal of brush or stumps.

**HEALTH DEPARTMENT COMMENT: For Item C. above regarding "spreading or storage of sludge or septage", would this also include biosolids?**

D. Storage of liquid petroleum products of any kind, except for the following:

1. Storage that is incidental to:

- a. Normal household use and outdoor maintenance or the heating of a structure.
- b. Use of emergency generators.
- c. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities has been approved by the Michigan Department of Environment, Great Lakes, and Energy.

2. Replacement of storage tanks and systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Section, provided that:

- a. All such replacement storage tanks or systems shall be located underground as required by the Michigan Department of Environment, Great Lakes, and Energy.
- b. All such storage systems shall be protected by a secondary containment system as specified by the Michigan Department of Environment, Great Lakes, and Energy.
- c. An application for tank replacement may be denied or approved subject to conditions upon determination by the Fire Chief that it could constitute a fire hazard or by the Michigan Department of Environment, Great Lakes, and Energy or Livingston County Health Department that it could constitute a danger to public or private water supplies.

E. Outdoor storage of salt, de-icing materials, pesticides, or herbicides.

F. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including, but not limited, to septic systems cleaners that contain toxic chemicals, such as methylene chloride and 1-1-1 trichloroethane, or other household Regulated Substances.

G. Stockpiling or disposal of snow or ice removed from highways and streets located outside of the Wellhead Protection Overlay District that contains sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow or ice removal.

H. Sewage disposal systems that are designed to receive more than one hundred ten (110) gallons of sewage per quarter acre per day or four hundred forty (440) gallons of sewage per acre per day, whichever is greater, provided that:





1. The replacement or repair of an existing system shall be exempted if it does not result in an increase in design capacity above the original design.
2. In calculating the maximum sewage disposal system density, it shall be assumed that each single-family-residential home will generate two hundred sixty (260) gallons of sewage per day.
3. Sewage disposal systems must meet all standards of the Livingston County Health Department.

**HEALTH DEPARTMENT COMMENT:** Items H., H.2. and H.3., should be revised to read as follows:

*"...Sewage ~~disposal~~ **treatment** systems that are designed..."*  
*"...In calculating the maximum sewage ~~disposal~~ **treatment** system density..."*  
*"...Sewage ~~disposal~~ **treatment** systems must meet..."*

I. Wastewater treatment facilities, except the following:

1. The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system.
2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system.
3. Treatment facilities designed for the treatment of contaminated surface waters or groundwaters.

**HEALTH DEPARTMENT COMMENT:** Item I.2. is confusing as proposed. Should it be revised to read as follows:

*2. The replacement of an existing subsurface sewage ~~disposal~~ **treatment** system with **a new system** ~~wastewater treatment works~~ that will not result in a design capacity greater than the design capacity of the existing system.*

J. Deep well injection systems.

K. Junkyards.

L. Automobile fueling/mixed-use station.

M. Automobile repair garage, except for those where all activities are conducted within a fully-enclosed building.

**Section 12A.09 Basis for Determination**

Both the Planning Commission and the Board of Trustees shall employ and be guided by the standards that shall be consistent with and promote the intent and purpose of this Ordinance and this Article, and ensure that the land use or activity authorized shall be compatible with the Wellhead Protection Overlay District and shall comply with the following additional standards. Approval





shall only be made upon a finding that the petitioner's application includes sufficiently detailed, definite, and credible information to support findings.

- A. In no way, during construction or thereafter, shall a project adversely affect the quality or quantity of water that is available in the Wellhead Protection Overlay District.
- B. The project shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and water-related natural characteristics of the site.

#### Section 12A.010 Performance Standards

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

- A. **Drainage:** For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease, and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.
- B. **Discharge of Regulated Substances:** The property owner shall prevent the discharge of regulated substances.
  - 1. Upon discovery of a discharge within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge, if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge. Remediation shall be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approval obtained from, the Zoning Administrator.

**HEALTH DEPARTMENT COMMENT:** With regard to Item 12A.010.B.1., which as proposed reads as follows:

*"...Remediation shall be conducted in a timely manner and in accordance with applicable law..."*

**It is recommended that environmental emergencies should be reported to the 24-hour Pollution Emergency Alerting System (PEAS) Hotline at 800-292-4706.**

- 2. All discharges shall be documented in writing and mailed to the Zoning Administrator within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:
  - a. Location of the discharge (name, address, and phone);
  - b. Reporting party's name, address, and phone (if different from above);
  - c. Emergency contact and phone;
  - d. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) discharged;
  - e. Map showing exact discharge location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;





- f. All measures taken to clean up the discharge; and
- g. All measures proposed to be taken to reduce and prevent any future discharge.
- 3. The Zoning Administrator shall determine if and where any additional investigative work needs to be completed to assess the potential impact of the discharge. The owner or operator shall retain a copy of the written notice for at least three years.

#### **Section 12A.011 Enforcement**

Violations of any provisions of this Article are declared to be nuisances per se, subject to enforcement as provided in Section 4.04 Violations and Section 4.05 Penalties and Remedies of this Ordinance, except as specified below.

- A. Violation Correction Period: A shorter period than fifteen (15) days may be required to correct a violation.
- B. Hearing Before Township Board: A hearing shall not be required before the Township Board.
- C. Fines and Penalties: Any person who violates this Article shall, upon being found responsible or being convicted, be fined one thousand (1,000) dollars for a first offense, three thousand (3,000) dollars for a second offence, and ten thousand (10,000) dollars for each additional offense, and in addition, shall pay all direct and indirect costs and expenses involved in the case, including actual attorney costs.

#### **Section 12A.012 Variances and Appeals**

Variances from the developmental standards of this Article and appeals from the administration of this Article may be heard by the Zoning Board of Appeals as provided in Article V Zoning Board of Appeals, except as specified below.

- A. Township Engineer: The Zoning Administrator or Zoning Board of Appeals may consult with the Township Engineer. The Township may collect an administrative escrow account, as provide in Section 4.07 Administrative Escrow Accounts, to cover the cost of Township Engineer consultation.
- B. Appeal Submission. A complete appeal of decision application must be submitted within ten (10) calendar days of the decision or action being appealed.

---

**Township Recommendation: Approval.** The Marion Township Planning Commission recommended Approval of this zoning amendment at its November 28, 2023, public hearing. There were no public comments noted in the minutes.

**Staff Recommendation: Approval With Conditions.** The proposed amendments related to the establishment of a wellhead protection overlay district, and the establish of procedures and enforcement for wellhead protection in Marion Township appear to be suitable and reasonable. It is recommended that as Conditions of Approval, the township is encouraged to consider making any revisions identified in the Staff review prior to taking any final approval and adoption.







# **WELLHEAD PROTECTION OVERLAY DISTRICT**

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

**Draft 03-15-2024**



# MARION TOWNSHIP WELLHEAD PROTECTION OVERLAY DISTRICT ZONING ORDINANCE AMENDMENT

An amendment to the Marion Township Zoning Ordinance to add definitions related to wellhead protection, amend/establish a wellhead protection overlay district, establish use and developmental standards for wellhead protection overlay districts, and establish procedures and enforcement for wellhead protection overlay districts.

## 1. AMENDMENT OF ARTICLE III: DEFINITIONS

---

Section 3.02 Definitions of the Zoning Ordinance is hereby amended to add the following wellhead protection definitions, which shall be placed in alphabetical order with existing definitions and shall read as:

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

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

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

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

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

## **2. AMENDMENT OF ARTICLE VI: GENERAL PROVISIONS**

---

Section 6.27 Wellhead Protection and Hazardous Substance Overlay Zone of the Zoning Ordinance is hereby deleted and reserved for future use, which shall read as follows:

Reserved for future use.

## **3. ADDITION OF ARTICLE XIIA: WELLHEAD PROTECTION OVERLAY DISTRICT**

---

Article XXIIA Wellhead Protection Overlay District to the Zoning Ordinance is hereby added, which shall read as follows:

### **ARTICLE XIIA: WELLHEAD PROTECTION OVERLAY DISTRICT**

#### **Section 12A.01 Intent**

The Wellhead Protection Overlay District is intended to provide supplemental developmental regulations in the designated wellhead protection areas to protect and preserve the surface and groundwater resources of the Township and the region from any use of land or buildings or hazardous materials that may reduce the quality or quantity of water resources; protect drinking water sources from long-term contamination; minimize economic impacts and legal liability; and recognize the importance of protecting groundwater to provide a safe drinking water supply for the Township. This Wellhead Protection Overlay District has been created in coordination with the Marion, Howell, Oceola, and Genoa Sewer and Water Authority's (MHOG) Wellhead Protection Plans drafted by Wood Environment and Infrastructure Solutions. This Wellhead Protection Overlay District was also created in conjunction with the City of Howell and Howell Township.

#### **Section 12A.02 Scope of Regulation**

The Wellhead Protection Overlay District is an overlay zoning district that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an overlay district is established, the property is located simultaneously in the two (2) districts, and the property may be developed only under the applicable conditions and requirements of both districts. In the event there is a conflict between the requirements of the two (2) districts, the requirements of the Wellhead Protection Overlay District shall prevail.

### **Section 12A.03      District Delineation**

- A. **Delineation:** The Wellhead Protection Overlay District includes all lands within the Marion, Howell, Oceola, and ~~Geona~~ Genoa Sewer and Water Authority's Wellhead Protection Areas, including recharge areas of groundwater aquifers and watershed areas that lie within the wellhead protection area that now or may in the future provide public water supply. If the wellhead protection area includes a portion of the lot, the entire lot shall be considered to be within the Wellhead Protection Overlay District.
- B. **Interpretation of District Boundaries:** Where the boundaries delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show whether the property should be located in the Wellhead Protection Overlay District. At the request of the owner, the Township may engage the services of a qualified professional to determine more accurately the location and extent of an aquifer within the wellhead protection area. The Township shall charge the owner for all or a part of the investigation.

### **Section 12A.04      Site Plan Review Required**

All proposed new or expanded structures or uses within in the Wellhead Protection Overlay District, except single-family uses, shall be subject to site plan review, pursuant to Article XVIII Site Plan Requirements.

### **Section 12A.05      Materials to be Submitted for Site Plan Review**

In addition to the data requirements of Article XVIII Site Plan Requirements, each application for site plan review within the Wellhead Protection Overlay District shall be accompanied by, at a minimum, the following:

- A. **List of Regulated Substances:** A complete list of chemicals, pesticides, fuels, and other Regulated Substances to be used or stored on the premises. Businesses that use or store such Regulated Substances shall file a management plan with the Fire Chief. The management plan shall include the following, at minimum:
1. Provisions to protect against the discharge of Regulated Substances or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures;
  2. Provisions for indoor, secured storage of Regulated Substances and wastes with impervious floor surfaces;
  3. Evidence of compliance with the rules and regulations of the Michigan Department of Environment, Great Lakes, and Energy;
  4. Drainage recharge features and provisions to prevent loss of recharge; and
  5. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.



- B. **Service Facilities and Structures:** Location of existing and proposed service facilities and structures, above and below ground, including:
1. General location of the site within the Wellhead Protection Overlay District;
  2. Areas to be used for the storage, loading/unloading, recycling, or disposal of Regulated Substances, including interior and exterior areas;
  3. Underground storage tank locations; and
  4. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- C. **Water Resources:** Location of existing wetlands and watercourses, including ponds and streams, on or within a quarter mile of the site.
- D. **Existing Contamination:** Delineation of areas on the site that are known or suspected to be contaminated, together with a report on the status of site clean-up.
- E. **MDEQ Checklist:** Completion of a Michigan Department of Environment, Great Lakes, and Energy checklist, indicating the types of environmental permits and approvals that may be needed for the project.
- F. **Additional Information:** Any additional information determined necessary by the Zoning Administrator, Planning Commission, or Township Board to determine compliance with this Ordinance.

#### **Section 12A.06      Uses Permitted By Right**

Except as otherwise provided for in this Article, the uses permitted by right in the underlying zoning district are permitted by right within the Wellhead Protection Overlay District.

#### **Section 12A.07      Uses Permitted by Special Use Permit**

The following uses are permitted by special use permit in the Wellhead Protection Overlay District:

- A. Commercial, industrial, governmental, or education uses that are allowed in the underlying district and are not prohibited in 12A.08 Prohibited Uses.
- B. Any enlargement, intensification, alteration, or change of use of an existing commercial, industrial, governmental, or education use.
- C. **Increase of Impervious Area:** The rendering impervious of more than fifteen (15) percent or 2,500 square feet of any lot, whichever is less, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of the groundwater.

- D. **Mining or Excavation:** The mining or excavation for removal of earth, loam, sand, gravel, or other soils or mineral resources, provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table, as determined from on-site monitoring wells and historical water fluctuation data compiled by the United States Geological Survey. One (1) or more monitoring wells shall be installed by the property owner to verify groundwater elevations. This sub-section shall not apply to excavations incidental to permitted uses, including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage ~~disposal~~treatment.
1. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.
  2. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.
- E. **Ice or Snow Removal Chemicals:** The storage of sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for removal of ice and snow on roads, provided such chemicals are covered and located on a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- F. **Leachable Materials:** The storage of fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials, provided that such materials are stored in accordance with the manufacturer's label instructions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture and that they are used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices" and all other necessary precautions are taken to minimize adverse impact on surface and groundwater.
- G. **Commercial Fertilizers or Soil Conditioners:** The storage of commercial fertilizers or soil conditioners, provided such storage shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- H. **Liquid Regulated Substances:** The storage of all liquid Regulated Substances, provided such materials must be stored either in a freestanding container within a building or in a freestanding container above ground level with protection to contain a spill the size of the container's total storage capacity.

#### **Section 12A.08 Prohibited Uses and Substances**

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

- A. Business or industrial uses that generate, use, treat, process, store, or dispose of Regulated Substances, including, but not limited to, metal plating, chemical manufacturing, wood preserving, or dry cleaning factory, except for the following:
1. Generators of a very small quantity of Regulated Substances (less than 20 kilograms or six (6) gallons per month), subject to Special Use Permit review.



2. Municipally-operated or sanctioned household waste collection stations.
  3. Waste oil retention facilities.
  4. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities have been approved by the Michigan Department of Environment, Great Lakes, and Energy.
- B. Business or industrial uses that dispose of process wastewater on-site.
- C. Solid waste landfills, dumps, landfilling, spreading, ~~or storage, or injection~~ of sludge ~~or~~ septage, or biosolids, with the exception of disposal of brush or stumps.
- D. Storage of liquid petroleum products of any kind, except for the following:
1. Storage that is incidental to:
    - a. Normal household use and outdoor maintenance or the heating of a structure.
    - b. Use of emergency generators.
    - c. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities has been approved by the Michigan Department of Environment, Great Lakes, and Energy.
  2. Replacement of storage tanks and systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Section, provided that:
    - a. All such replacement storage tanks or systems shall be located underground as required by the Michigan Department of Environment, Great Lakes, and Energy.
    - b. All such storage systems shall be protected by a secondary containment system as specified by the Michigan Department of Environment, Great Lakes, and Energy.
    - c. An application for tank replacement may be denied or approved subject to conditions upon determination by the Fire Chief that it could constitute a fire hazard or by the Michigan Department of Environment, Great Lakes, and Energy or Livingston County Health Department that it could constitute a danger to public or private water supplies.
- E. Outdoor storage of salt, de-icing materials, pesticides, or herbicides.
- F. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including, but not limited, to septic systems cleaners that contain toxic chemicals, such as methylene chloride and 1-1-1 trichloroethane, or other household Regulated Substances.

- G. Stockpiling or disposal of snow or ice removed from highways and streets located outside of the Wellhead Protection Overlay District that contains sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow or ice removal.
- H. Sewage ~~disposal~~ treatment systems that are designed to receive more than one hundred ten (110) gallons of sewage per quarter acre per day or four hundred forty (440) gallons of sewage per acre per day, whichever is greater, provided that:
  - 1. The replacement or repair of an existing system shall be exempted if it does not result in an increase in design capacity above the original design.
  - 2. In calculating the maximum sewage ~~disposal~~ treatment system density, it shall be assumed that each single-family-residential home will generate two hundred sixty (260) gallons of sewage per day.
  - 3. Sewage ~~disposal~~ treatment systems must meet all standards of the Livingston County Health Department.
- I. Wastewater treatment facilities, except the following:
  - 1. The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system.
  - 2. The replacement of an existing subsurface sewage ~~disposal~~ treatment system with ~~wastewater treatment works~~ a new system that will not result in a design capacity greater than the design capacity of the existing system.
  - 3. Treatment facilities designed for the treatment of contaminated surface waters or groundwaters.
- J. Deep well injection systems.
- K. Junkyards.
- L. Automobile fueling/mixed-use station.
- M. Automobile repair garage, except for those where all activities are conducted within a fully-enclosed building.

#### **Section 12A.09      Basis for Determination**

Both the Planning Commission and the Board of Trustees shall employ and be guided by the standards that shall be consistent with and promote the intent and purpose of this Ordinance and this Article, and ensure that the land use or activity authorized shall be compatible with the Wellhead Protection Overlay District and shall comply with the following additional standards. Approval shall only be made upon a finding that the petitioner's application includes sufficiently detailed, definite, and credible information to support findings.



- A. In no way, during construction or thereafter, shall a project adversely affect the quality or quantity of water that is available in the Wellhead Protection Overlay District.
- B. The project shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and water-related natural characteristics of the site.

#### **Section 12A.010      Performance Standards**

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

- A. **Drainage:** For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease, and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.

- B. **Discharge of Regulated Substances:** The property owner shall prevent the discharge of regulated substances.

1. Upon discovery of a discharge of a regulated substance within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge, if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge.

- a. Remediation shall be conducted in a timely manner and in accordance with applicable law.

- b. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approval obtained from, the Zoning Administrator.

- c. Environmental emergencies shall be reported immediately to the Pollution Emergency Alerting System hotline.

4-2. All discharges shall be documented in writing and mailed to the Zoning Administrator within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:

- a. Location of the discharge (name, address, and phone);
- b. Reporting party's name, address, and phone (if different from above);
- c. Emergency contact and phone;
- d. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) discharged;

- e. Map showing exact discharge location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;
- f. All measures taken to clean up the discharge; and
- g. All measures proposed to be taken to reduce and prevent any future discharge.

2.3. The Zoning Administrator shall determine if and where any additional investigative work needs to be completed to assess the potential impact of the discharge. The owner or operator shall retain a copy of the written notice for at least three years.

#### **Section 12A.011 Enforcement**

Violations of any provisions of this Article are declared to be nuisances per se, subject to enforcement as provided in Section 4.04 Violations and Section 4.05 Penalties and Remedies of this Ordinance, except as specified below.

- A. Violation Correction Period: A shorter period than fifteen (15) days may be required to correct a violation.
- B. Hearing Before Township Board: A hearing shall not be required before the Township Board.
- C. Fines and Penalties: Any person who violates this Article shall, upon being found responsible or being convicted, be fined one thousand (1,000) dollars for a first offense, three thousand (3,000) dollars for a second offence, and ten thousand (10,000) dollars for each additional offense, and in addition, shall pay all direct and indirect costs and expenses involved in the case, including actual attorney costs.

#### **Section 12A.012 Variances and Appeals**

Variances from the developmental standards of this Article and appeals from the administration of this Article may be heard by the Zoning Board of Appeals as provided in Article V Zoning Board of Appeals, except as specified below.

- A. **Township Engineer:** The Zoning Administrator or Zoning Board of Appeals may consult with the Township Engineer. The Township may collect an administrative escrow account, as provide in Section 4.07 Administrative Escrow Accounts, to cover the cost of Township Engineer consultation.
- B. **Appeal Submission.** A complete appeal of decision application must be submitted within ten (10) calendar days of the decision or action being appealed.



# Zoning Text Amendment for Marion Township Planning Commission

## INTRODUCTION

The Planning Commission has identified a desire to make revisions to the Zoning Ordinance related to signs, which are currently regulated in Article XV Signage. Sign regulation requires close attention, as it can run into constitutional challenges.

This report identifies areas needing attention, proposes some changes, and outlines areas for additional guidance from the Planning Commission.

## BRIEF SUMMARY OF POTENTIAL REVISIONS

### Definitions

Neither Article III Definitions or Article XV Signage contain definitions for signs. The following is some potential sign-related definitions for consideration.

**ABANDONED SIGN.** A sign that no longer directs a person to or advertises a business, owner, product available, or activities conducted on the site where the sign is located or any sign not repaired or maintained properly.

**ACCESSORY SIGN.** A sign that is accessory to the principal use of a lot.

**A-FRAME SIGN.** A temporary sign that is hinged at the top, not attached to a building, a structure, or the ground, that is designed to be easily placed and removed.

**AWNING SIGN.** A sign located on or attached to an awning.

**BACK-TO-BACK SIGN.** A sign with two (2) sign faces oriented in opposite directions.

**BANNER.** A temporary sign on paper, cloth, fabric, or other flexible or combustible material that is attached to a wall or sign face or strung between poles or structures.

**CANOPY SIGN.** A sign located on or attached to a canopy.

**COMMERCIAL CENTER.** A group of three (3) or more commercial units, such as retail, office, or similar, that share a common vehicular access and off-street parking are on private property.

**COMMERCIAL MESSAGE.** Any message that advertises or promotes a commercial product, service, or activity.

**COMMERCIAL MESSAGE SIGN.** A sign that conveys or displays a commercial message.

**ELECTRONIC MESSAGE SIGN.** A sign that displays changing messages or graphics using light emitting diodes.

**ENTRANCEWAY MONUMENT SIGN.** A freestanding sign placed at a major entrance to a residential development with multiple dwelling units.

**FLAG SIGN.** A flag that conveys or is intended to convey a commercial message.

**FREESTANDING SIGN.** A sign that is not attached to a principal or accessory structure, including center pole signs, posts and panels, or monument signs. Also known as a ground sign or monument sign.

**GROUND SIGN.** A base-mounted, freestanding sign placed on the ground and not attached to any building or other structure.

**MOVING SIGN.** A sign that moves, contains visible moving parts, or simulates movements, including spinners, streamers, balloons, spotlights, scrolling text, or moving images, but excluding official flags.

**MUTIPLE TENNANT SIGN.** A sign that identified ~~XX~~ or more tenants on a site.

**NON-ACCESSORY SIGN.** A sign that is not accessory to the principal use of a lot.

**OFFICIAL FLAG.** The flag, pennant, or insignia of any nation, state, county, city, or other similar political entity.

**OFFICIAL SIGN.** A sign covered by the Manual on Uniform Traffic Control Devices and similar signs erected or maintained by a governmental body and noncommercial signs required by law.

**OFF-SITE SIGN.** A sign that identifies goods, services, facilities, events, or attractions that are not available or provided at the location where the sign is located.

**PERMANENT SIGN.** Any sign that is displayed or intended to be displayed for an extended period of time of more than forty-five (45) days, unless otherwise noted in this Ordinance.

**PORTABLE SIGN.** A temporary, freestanding sign that is not permanently anchored or secured to a building, structure, or ground that is designed to be easily moved, such as sidewalk signs, sandwich signs, A-frame signs, T-shaped signs, and inverted T-shaped signs.

**PROJECTING OR PERPENDICULAR SIGN.** A sign that is attached to and projects from a structure or building façade by more than eighteen (18) inches and does not project above the roof line or parapet wall.

**PROHIBITED SIGN.** Any sign that is not permitted according to this Ordinance.

**ROOF SIGN.** A sign attached to a building that is attached to the roof or projects above the wall or parapet.

**SIGN.** Any visual device, identification, description, illustration, or structure that is intended to visually attract attention from offsite or a public or private right-of-way to identify or direct attention to a person, place, product, service, activity, institution, organization, business or opinion. The term shall not include official flags, official signs, the minimum signs required for compliance with MCL 324.73102 (PA451 of 1994), or public notice signs.

**SIGN AREA.** The area within a rectangle, square, triangle, parallelogram, or circle enclosing the most protruding points of edges of the sign structure including the frame, regardless of the shape of the structure, unless otherwise noted in this Ordinance.



**SIGN HEIGHT.** The vertical distance from the average grade adjacent to the sign to the highest point of the sign, including framing, unless otherwise noted in this Ordinance

**SIGN PERMIT.** A permit issued by the Township for installation of a sign signifying compliance with the provisions of this Ordinance, which may include and set forth any conditions that must be followed.

**SIGN SETBACK.** The horizontal distance between any portion of a sign and lot lines, structures, and other features.

**TEMPORARY SIGN.** Any sign that is displayed or designed to be displayed for a limited period of time of forty-five (45) days or less, unless otherwise noted in this Ordinance. Also known as a portable sign.

**VEHICLE SIGN.** A sign that is painted on or attached to a motor vehicle, recreational vehicles, trailer, or watercraft that is placed, parked, or maintained at a particular location for the purpose or intent of conveying a message.

**WALL SIGN.** A sign that is attached to or painted directly on a building façade with the sign surface generally parallel to the building face, excluding window signs.

**WINDOW SIGN.** A sign that is applied or attached to a window or located in a manner within a building that it is visible from the exterior of a building through a window, excluding a window display.

**YARD SIGN.** A small, temporary sign generally characterized by a post or wire frame, non-durable message surface, such as cardboard, plastic, or paper, and a lack of foundation.

## Intent and Purpose

The intent and purpose section for signs is extremely important in establishing the compelling governmental purpose for the sign standards.

The current intent and purpose, in §15.01 Purpose is below.

*The purposes of this Article shall be to preserve the residential character and rural atmosphere of the community; to prevent the marring of the appearance of Marion Township by an excessive number of signs; to provide for the safety of drivers and pedestrians by controlling distractions and impairments to visibility; to render the area attractive to travelers; to protect residents from annoyances; and to protect the public health, safety, welfare, and property values by: establishing standards for the design, size and location of signs; establishing permit review and approval procedures for signs; and providing for the removal of any unauthorized signs. All signs within Marion Township shall conform to the provisions of this Article.*

An intent and purpose section that separates the intents and purposes is recommend to make it easier to use and apply. A potential example, incorporating the above, is shown below.

The intent and purpose of this Article is to promote the following Township and public interests:

HEALTH, SAFETY, AND WELFARE. Ensure that signs are located, designed, constructed, and maintained in a manner that protects and preserves life, health, safety, property, and public welfare;

FREE SPEECH. Ensure that the constitutionally-guaranteed right of free speech is protected by allowing signs as a means of communication, subject to appropriate and legally-permissible time, place, and manner limitations;

VEHICULAR AND PEDESTRIAN SAFETY. Reduce visual distractions and obstructions to motorists travelling along, entering, or leaving roads or driveways and to pedestrians;

CHARACTER. Preserve the existing and desired rural character of the Township, as identified in the Master Plan;

LIGHT. Limit the amount and type of light emitted by signs to preserve and enhance the Township's Desired rural character, reduce distractions and hazards to motorists, and preserve and enhance quality of life;

BLIGHT AND NUISANCE. Prevent and limit visual blight and nuisance conditions by preventing visual clutter, protecting views, managing sign placement and size, and limiting intrusion of signs in certain areas;

NEGATIVE IMPACTS. Minimize negative impacts of signs on surrounding properties and public spaces through reasonable time, place, and manner standards;

EMERGENCY RESPONSE. Preserve and enhance the effectiveness of address displays, directional signs, and warning signs to facilitate swift emergency response;

WAYFINDING. Preserve and enhance wayfinding by ensuring visibility, reducing clutter, and ensuring legibility;

MESSAGE COMPREHENSION. Provide for signs that are adequate and appropriate, but not excessive, to convey a message for easy comprehension;

REASONABLE SCALE. Keep signs within a reasonable scale relative to the building, use, or site they are accessory to and the surrounding area;

GOOD DESIGN. Encourage good design relative to size, spacing, illumination, type, and placement to enhance the Township's appearance;

PUBLIC INVESTMENT. Protect the public investment in public structures, such as roads;

REGULATORY SIGNS. Maintain and enhance the effectiveness of necessary direction, warning, and regulatory signs;

COMPELLING GOVERNMENTAL PURPOSE. Facilitate the advancement of the compelling governmental interests enumerated in this Ordinance and adopted Township plans;

ESTABLISH STANDARDS. Establish clear standards that are the least-restrictive necessary to achieve the compelling governmental interests; and

ADMINISTRATION AND ENFORCEMENT. Establish administrative standards and processes to facilitate the administration and enforcement of this Article; provide guidance for residents, businesses, and property owners; and ensure equal treatment.



### Scope of Application

The current sign article does not include a clear scope of application. Including a simple section near the front would be helpful for administration and make it more defensible. Potential scope of application language is below.

Signs, as defined in this Ordinance, within the Township shall only be installed, constructed, reconstructed, altered, or maintained in compliance with this Article.

### Authority

The current sign article alludes to authority to administer, interpret, and enforce the sign article near the back of the text. It is recommended to place that closer to the front for ease of use. Potential authority language is below.

Authority to administer, enforce, and interpret this Article is outlined below.

ZONING ADMINISTRATOR. Authority to administer, interpret, and enforce this Article and to approve sign permits shall be with the Zoning Administrator and designees, except where otherwise specified.

ORDINANCE ENFORCEMENT OFFICIALS. Authority to enforce this Article shall be with Ordinance Enforcement Officials, except where otherwise specified.

ZONING BOARD OF APPEALS. Authority to hear appeals of the administration, interpretation, and enforcement of this Article and to hear and decide developmental standard variances from the provisions and standards of this Article shall be with the Zoning Board of Appeals.

TOWNSHIP BOARD. Authority to adopted fees and fines related to this Article shall be with the Township Board.

### Prohibited Signs

The next section defines 20 types of signs that are prohibited in all zoning districts. Including this near the front of a sign article is recommended, because it puts folks on notice that a particular sign is prohibited before they go through too much of the article. Potential prohibited sign language is below.

The following signs are prohibited, unless otherwise specifically permitted in this Ordinance.

ABANDONED SIGNS; *[Include description here or in definition section.]*

ADD-ON SIGNS. Signs that are attached as an appendage to another sign or sign support structure;

AIR-ACTIVATED SIGNS. Signs that are inflated by air or use airflow to induce movement;

ANIMATED OR MOVING SIGNS. Signs that move, contain visible moving parts, or simulate movement, including, but not limited to, spinners, streamers, balloons, scrolling text, and spotlights, but excluding flags and official signs.

BANNER SIGNS;

CERTAIN TYPES OF ILLUMINATION. Signs with the following types of illumination:

TEMPORARY SIGNS. Illumination of any type of temporary sign;

TRAFFIC HAZARDS. Illumination that could distract motorists or otherwise create a traffic hazard; or

GLARE AND UNSHIELDED ILLUMINATION. Use of glaring, undiffused luminaires, or visible bare bulbs, including neon or light emitting diodes;

CLEAR-VISION ZONE. Signs taller than thirty (30) inches within the clear-vision zone;

CONFUSING SIGNS. Signs that have the appearance of an official sign or use text or graphics used on an official sign that may confuse motorists;

FEATHER SIGNS. Signs made of flexible material attached to a pole on one side with the intent of allowing the sign to move with the wind;

FLASHING SIGNS. Signs that contain flashing, blinking, or strobe lights or has the appearance of lighting associated with emergency vehicle lighting, traffic signals, or official signs;

FESTOONS;

FURNITURE SIGNS. Signs attached to or painted on a bench, table, or other outdoor furniture;

OBSTRUCTION OF SAFE ACCESS. Signs that obstruct free ingress or egress to or from a required door, window, fire escape, driveway, or other required access route;

OBSTRUCTION OF SAFE VISION. Signs that obstruct or interfere with an official sign, signal, or device, or obstruct or interfere with a motorist's vision of approaching, merging, or intersecting vehicles even when consistent with setback or other location standards of this Ordinance;

POLE SIGNS;

PORTABLE SIGNS;

PROJECTOR-IMAGE SIGNS. Signs that are displayed by light from a projector or similar source;

RIGHT-OF-WAY SIGNS. Signs, other than official signs, that are located in, encroach on, project into, or overhang a right-of-way, unless specifically permitted by the road agency;

ROOF SIGNS. Signs that are mounted on or project above or beyond the roof or parapet wall;

SEARCHLIGHTS. Searchlights or spotlights used to draw attention to a location or event;



SNIPES SIGNS. Signs that are attached to utility poles, light poles, or trees within rights-of-way or other public spaces;

STATE HIGHWAY. Signs subject to the Highway Advertising Act (MCL 252.301 et seq) with faces that are visible from an interstate highway, freeway, or primary highway that are in violation of that Act or do not have a valid annual permit;

UNSAFE SIGNS. Signs that are structurally unsafe or constructed in violation of the Building Code;

VEHICLE SIGNS;

OTHER SIGNS. Any other signs not expressly permitted by this Ordinance.

#### **AREAS FOR DISCUSSION AND GUIDANCE**

Please review the rest of the current sign article and be prepared to discuss general organization and some specific standards, as time allows at the Planning Commission meeting.

---

-Zach Michels  
*Quality Zoning*  
*Dexter, MI*