

ORDINANCE # 27

An ordinance to regulate the division of parcels or tracts of land in order to carry the provisions of Michigan Public Act 288 of 1967, as amended, being the Land Division Act, Public Act #591 of 1996 as amended; to establish minimum requirements and procedures for the approval of such land divisions and to prescribe penalties for the violation of this ordinance.

Section 1. TITLE AND PURPOSE

- 1.1 This ordinance shall be known and may be cited as the Sherman Township Land Division Ordinance.
- 1.2 The purpose of this ordinance is to carry out the provisions of the Land Division Act, Michigan public Act 288 of 1967, as amended (the "Act"), including without limitation Sections 105, and 109(5) thereof, in order to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.
- 1.3 This Ordinance shall not be construed to repel, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

Section 2. DEFINITIONS

- 2.1 Certain words and phrases used in this Ordinance shall have meanings stated in this section. Other words and phrases, if defined by the Act, shall have meanings stated in the Act.
- 2.2 "Administrator" means the Sherman Township Zoning Administrator or other designated official.
- 2.3 "Division" or "land division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent (as defined in the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.
- 2.4 "Exempt split" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent.
- 2.5 "Parcel" means a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- 2.6 "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on March 31, 1997
- 2.7 "Road authority" means the governmental authority having jurisdiction of a public road or public street.
- 2.8 "Resulting parcel(s)" means one or more parcel(s) which result from a land division.
- 2.9 "Tract" means two or more parcels that share a common property line and are under the same ownership.

Section 3. LAND DIVISION APPROVAL REQUIRED

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

Section 4. APPLICATION FOR LAND DIVISION APPROVAL

4.1 A proposed land division shall be filed with the Administrator and shall include the following:

- (a) A completed application, on such written form as the township may provide, including any exhibits described therein;
- (b) Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land;
- (c) A land title search, abstract of title or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
- (d) A copy of each deed or other instrument of conveyance that contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.
- (e) Three copies of a tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to a scale of not less than one inch = 20 feet for parent parcels or parent tracts of less than three acres in area, and to a scale of at least one inch = 100 feet for parent parcels or parent tracts of three acres or more in area. A tentative parcel map shall include:
 - (1) Date, north arrow, scale, and the name of the person or firm responsible for preparation of the tentative parcel map.
 - (2) Proposed boundary lines and dimensions of each parcel.
 - (3) An adequate and accurate legal description of each resulting parcel and the name of firm or person supplying this information.
 - (4) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number area and date of such divisions.
 - (5) The location, dimensions, and nature of proposed ingress to and egress from any existing public or private streets, and
 - (6) The location of any public or private street, driveway or utility easement to be located within any resulting parcels. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - (7) *If a proposed land division creates a parcel that is landlocked, that parcel shall include a deeded strip of land with a minimum width of twenty (20) feet with access to a public street or private road. (Refer to zoning*

ordinance 3.35 Shared Drives and 17.16 Private Roads). (added July 2007)(was 15ft, changed to 20ft April 2014)

- (f) The requirements of subparagraph (e) do not apply to any resulting parcel, which is 40 acres, or larger, as long as such parcel satisfies the requirements of Section 5.1(b) below.
 - (g) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
 - (h) Payment of the application fee and other applicable fees and charges established by resolution of the Township Board.
- 4.2. A proposed land division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.3 commence, until all of the requirements for an application for land division approval have been complied with.

Section 5. MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

- 5.1 A proposed land division shall be approved by the Administrator upon satisfaction of all of the following requirements:
- (a) The application requirements of Section 4.
 - (b) Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of subsection 5.2.
 - (c) The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
 - (d) Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
 - (e) Each resulting parcel shall have the depth to width ratio specified by the Township zoning ordinance for the zoning district(s) in which the resulting parcel is located.
 - (f) All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the Township zoning ordinance for the zoning district(s) in which the resulting parcels are located.
- 5.2 If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:
- (a) If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable Township ordinances.
 - (b) If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is

- to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with applicable Township ordinances.
- (c) If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.
- 5.3 The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the Administrator, and shall provide the applicant with written notice of such approval or disapproval. If disapproved, the Administrator shall provide the applicant with a description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109(a) of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.
- 5.4 An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least 10 days written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.

Section 6. APPROVAL OF LAND DIVISIONS

- 6.1 The administrator shall maintain a record of all land divisions approved by the Township.
- 6.2 A decision approving a land division shall be effective for not more than 180 days after such approval by the Administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 180 day period:
- (a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract retained by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
- (b) A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof; showing proof of such recording shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970 as amended.
- If neither paragraph (a) nor (b) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator or, if appealed, by the Township board.
- 6.3 All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 5.1 shall be reviewed by the Administrator in order to

determine their conformity with the approved tentative parcel map. Such documents shall be maintained by the Administrator in the Township record of the approved land division.

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

Section 7. PENALTIES AND OTHER REMEDIES

A violation of this ordinance (Sherman Township Ordinance #13 or #27) constitutes a civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offence and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be a separate offense.

Section 8. SEVERABILITY

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

Section 9. EFFECTIVE DATE

This ordinance shall become effective starting January 1, 1999 and must be published in a newspaper of general circulation 30 days prior to effective date.

AYES: Members Berens, Obits, Smalligan, Stocking, Stroven

NAYS: Members NONE ORDINANCE DECLARED ADOPTED.

Murry D Stocking

Murry D Stocking, Township clerk

Sherman Township: Newaygo County, Michigan
ORDINANCE #28

AN ORDINANCE PROVIDING FOR MUNICIPAL CIVIL INFRACTIONS OF CERTAIN TOWNSHIP ORDINANCES AND PENALTIES PURSUANT THERETO; ESTABLISHING PROCEDURES RELATING THERETO; AUTHORIZATION OF WHICH TOWNSHIP OFFICIALS CAN ISSUE CIVIL INFRACTION TICKETS AND APPEARANCE TICKETS; PENALTIES; AND PROCEDURES RELATING TO SUCH MATERS.

The Township of Sherman Ordains;

Section 1. TITLE. This ordinance shall be known as the "Sherman Township Municipal Penalty, Civil infraction and Appearance Tickets Ordinance."

Section 2. DEFINITIONS. As used in this chapter:

"Act" means Act # 236 of the Public Acts of 1961, as amended, and Public Act 12-26 of 1994 as amended

"Authorized Township Official" means a township official, police officer or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.

"Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

"Municipal civil infraction action citation" means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

"Township" means Sherman Township.

Section 3. MUNICIPAL CIVIL INFRACTION ACTION: COMMENCEMENT. A municipal civil infraction action may be commenced upon the issuance by an authorized township official of a municipal civil infraction directing the alleged violator to appear in court.

Section 4. MUNICIPAL CIVIL INFRACTION CITATIONS: ISSUANCE AND SERVICE. Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

- A. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- B. The place for appearance specified shall be the District Court which has jurisdiction over Sherman Township
- C. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by Section 8705 of the Act.
- D. A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the

following statement immediately above the date and signature to the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

- E. An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- F. An authorized township official may issue a citation to a person if;
 - 1. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - 2. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.
- G. Municipal civil infractions shall be served by an authorized township official as follows;
 - 1. Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator
 - 2. If the municipal civil infraction action involves the use of occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching a copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

Section 5. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS

- A. A municipal ordinance citations shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- B. Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - 1. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - 2. Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation, at or by the time specified for appearance.
 - 3. Deny responsibility for the municipal civil infraction by doing either of the following;
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township.
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

- C. The citation shall also inform the alleged violator of all the following;
1. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representative within the time specified for appearance and obtain a scheduled date and time for an appearance.
 2. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representative within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 3. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 4. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 5. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

D. The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgement against the alleged violator on the municipal civil infraction.

Section 6. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF TOWNSHIP ORDINANCES; CONTINUING VIOLATIONS; INJUNCTIVE RELIEF.

A. Unless a violation of an ordinance of the Township of Sherman is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a criminal misdemeanor.

- B. The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.
- C. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinances involved, plus any costs, No 236 of the Public Acts of 1961, as amended, Public Acts 12-26 of 1994, as amended, and other applicable laws.
1. Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than \$100.00 plus cost and other sanctions, for each infraction.
 2. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this Ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by a person within any twelve (12) month period (unless some other period is specifically provided by an Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise

specifically provided by an ordinance for a particular municipal civil infraction, the increased fine for a repeat offense shall be as follows:

- a. The fine for any offense which is a first repeat offense shall not be less than \$100.00 , plus costs.
- b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$200.00 , plus costs.

D. A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.

E. Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

F. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of any Township ordinance.

Section 7. AUTHORIZED PERSONS-CIVIL INFRACTION TICKETS. Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Sherman Township ordinance to the contrary, the following officials are hereby designated as the authorized Township officials to issue and serve municipal civil infraction citations for violations of Township Ordinances which provide for a municipal civil infraction for a violation thereof:

The Township Building Inspector
The Newaygo County Sheriff and all other Deputy County Sheriffs of said county
The Township Fire Marshal
The Township Supervisor
The Township Mechanical and Electrical Inspectors
The Township Ordinance Enforcement Officer
The Township Zoning Administrator
The Township Clerk

Section 8. AUTHORIZED PERSONS-MISDEMEANOR APPEARANCE TICKETS. Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Sherman Township ordinance to the contrary, the following officials are empowered to issue and serve Appearance Tickets for violations of Township ordinances which contain criminal misdemeanor penalties for violations of the ordinance involved:

The Township Building Inspector
The Newaygo County Sheriff and all other Deputy County Sheriffs of said county
The Township Fire Marshal
The Township Supervisor
The Township Mechanical and Electrical Inspectors
The Township Ordinance Enforcement Officer
The Township Zoning Administrator
The Township Clerk

Section 9. APPLICABILITY OF THE ACT. If this Ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

Section 10. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be servable. If any parts, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 11. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within Sherman Township.

This Ordinance was offered for adoption by Township Board Member Smalligan and was seconded by Township Board Member Stroven, the vote being as follows;

YEAS: Berens, Obits, Smalligan, Stocking, Stroven

NAYS: None

Ordinance declared adopted.

Murry D Stocking

Murry D Stocking, Township clerk

Sherman Township: Newaygo County
Junk Control Ordinance
Ordinance #~~28~~ 29

THE TOWNSHIP OF SHERMAN ("Township") ORDAINS AS FOLLOWS:

Section 1 Findings and purpose. The Township Board of the Township of Sherman ("Township") hereby finds that it is essential and necessary to the health, safety, well-being, and welfare of the residents of the Township and the well-being of the personal and real property located within the Township and that the Township adopt this Ordinance, and that the disposal and accumulation of solid and liquid waste, junk, refuse, trash, and discarded items shall occur in a sanitary, orderly, and safe fashion. In the past, junk, waste, refuse, trash, and hazardous material may have been improperly dumped, buried, or disposed of within the Township, which may have caused irreparable harm to property and natural resources within the Township, including but not limited to, lakes, streams, soils, groundwater, watersheds, and sensitive wetlands, all of which are essential to the health and economic well being of the community. The Township board further finds that the improper disposal of such materials impairs property values and poses a real and substantial risk to the health and safety of persons, pets, farm animals, and wildlife within the Township.

This ordinance is not intended to interfere with the lawful farming and generally accepted farm operations or practices. Nor shall this ordinance be deemed to prohibit or interfere with the otherwise lawful storage or spreading of manure, fertilizers, herbicides, or other soil conditioners as part of a farm operation.

Section 2 Authorization. This Ordinance is authorized and enacted pursuant to MCL 41.181, *et seq.*, Article 4, Section 53 of the Michigan Constitution of 1963 and other applicable laws.

Section 3 Prohibited Acts. Unless otherwise expressly permitted by Section 4 hereof, it shall be unlawful for any person, entity, firm, corporation, association, or other organization to do or permit any of the following (or to assist in doing any of the following) within Sherman Township:

A: Operate an unlicensed or unlawful dump, landfill, or sanitary landfill.

B: Utilize, bury or dispose of any item at an unlicensed or illegal landfill or disposal site knowing the same to be unlicensed or illegal.

C: Pour, inject, drain, dump, abandon, bury, or dispose of any discarded liquid which may be hazardous, toxic, nuclear, poisonous, putrid, dangerous, or biologically harmful into, below, within, or onto the ground, substrata, a road, or any soil, lake, stream, pond, or wetland or to accumulate or store such discard liquids outdoors. For purposes of this subsection C, the words hazardous, toxic, nuclear, poison, putrid, dangerous, or biologically harmful shall be defined by any federal or Michigan law. This prohibition shall include, but not be limited to, gasoline, oil, cleaning fluid, industrial or commercial waste, medical waste, paint waste, processed food byproducts or waste, flammable liquid, or liquid industrial by-products.

D: Deposit, dump, drain, or cause to be drained, any harmful or hazardous liquid, sewage, or industrial waste substance from any sink, tank, motor vehicle, or any other thing, onto

the surface of any land or into any open ditch, lake, stream, pond, or wetland, or into any pipe or conduit which directly or indirectly empties or deposits any such substance onto the surface of any land or into any open ditch, lake, creek, wetland, or stream.

E: Place, throw, bury, dump, abandon, store, or accumulate outdoors any empty or partially filled cans, food containers, broken or whole bottles, trash, rubbish, garbage, litter, junk, rags, used or broken glass, mobile homes not meeting township ordinance requirements, debris, used tires, used tanks, discarded or scrap plastic, waste, boxes, barrels, scrap metal, cardboard, inoperable or partially assembled equipment or machinery, scrap rubber, crockery, or utensils of any kind, automobile or vehicle bodies or parts of automobiles or vehicles (except in a duly licensed junk yard), old stoves or appliances, furniture, parts of machinery, contaminated soil, illegal pesticide, illegal fertilizer, refuse, scrap Styrofoam, paper, broken pallets, cloth, batteries, mattresses or bed springs, flammable matter or substance, offal, medical waste, industrial byproducts or waste substances, or objects of a similar nature, upon, under, or on any land in the Township, or to permit any such things or substances to accumulate on land or water over which the person permitting the same occupies, owns, leases, or has control.

F: Allow the accumulation of materials which provide rat harborage or which may serve as food for rats or is accessible to such rodents or in or around which flies, insects, rodents, or vermin may exist, breed, or multiply, or to suffer or permit upon any premises stagnant or filthy water deemed a health hazard by the Newaygo County Health Department (excluding natural wetlands), dead animals or unwholesome meat, or any other unwholesome, filthy, deleterious, or offensive thing or substance.

G: Litter on any property or roadway within the Township

H: Accumulate, place, store, or allow or permit the accumulation, placement, or storage of trash or junk outdoors on property in Sherman Township, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed eight (8) days' storage in watertight storage receptacles designed for the temporary accumulation of trash.

Section 4. **Exceptions to this Ordinance.** The following activities shall not be subject to the requirements of Section #3 of this Ordinance:

A: The lawful disposal of materials or items into or within a lawful sanitary landfill, hazardous materials landfill, or facility or incinerator properly licensed by the State of Michigan.

B: The lawful disposal of materials or items into or within a lawful waste disposal site which has been expressly approved or authorized by the Township of Sherman under its zoning ordinance or other ordinance.

C: The otherwise lawful storage, use, and application of lawful fertilizers (excluding human waste), herbicides, and insecticides pursuant to agricultural, landscaping, lake weed control, or horticultural uses.

D: The accumulation of spreading of animal (not-human) manure for agricultural purposes.

E: The composting of plant, vegetative, or crop matter.

F: Winter treatment of roads, sidewalks, steps, and other ways for snow and ice removal.

G: The lawful storage of automobile or vehicle bodies or parts at a lawful and approved junk yard.

H: Lawfully and properly maintained feed, chemical, fertilizer, fuel, or liquid storage tanks, whether above or below ground, including the contents thereof.

I: The outdoor storage of bona fide farm equipment, farm implements and farm vehicles, if being used for ongoing farm operations and if in compliance with any and all other applicable Sherman Township ordinances.

J: The lawful disposal of human and conventional household waste pursuant to a lawful municipal or underground septic system, or as otherwise expressly allowed pursuant to any applicable ordinance.

K: Notwithstanding any provision of this Ordinance, the following items may be buried or disposed of within the Township:

- (i) Clean fill;
- (ii) Crops, natural compost or vegetative items;
- (iii) Rocks or untreated wood;
- (iv) Cables, conduits, pipes and tubes which are being utilized for utilities, drainage or irrigation purposes;
- (v) Cement;
- (vi) Basements, shelters, foundations, lawful structures and nontoxic pilings or anchors;
- (vii) Conventional firewood;
- (viii) Cemetery uses and burial of pets;
- (ix) Approved and lawful underground storage tanks;
- (x) Burying of dead farm animals if buried on land comprising the farm where the animals were from;
- (xi) Approved, lawful underground septic systems;
- (xii) Burying of any road killed animal at or near the site killed;
- (xiii) Disposal of game remains by the hunter or fisherperson involved if the game was lawfully killed.

Section 5. Building Materials. No building materials shall be stored outside of a fully enclosed building for over sixty (60) days. This section shall not apply to building materials used for lawfully operated building materials supply business or building materials stored on an a site or property for two (2) years or less for which a valid building permit has been issued by the appropriate county or Township official and where said material are intended for use in connection with such construction on that property or site. For purposes of this Ordinance the term "building materials" shall include but not be limited to, lumber, building blocks or bricks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, insulation, nails, or screws.

Section 6 Violation; Penalty, Remedies, and Enforcement. A violation of this Ordinance constitutes a municipal infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a pervious violation of

the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 7 Other Persons Who May Be Liable. The prohibitions and penalties of this Ordinance shall apply not only to any person, firm, entity, corporation or association which does anything prohibited by this Ordinance and those who aid and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property from, through, or onto which any such prohibited items, materials, or substances are drained, buried, dumped, abandoned, stored, or accumulated and who permits or acquiesces in such actions or Ordinance violations.

Section 8 Additional remedies. In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance *per se*.

Section 9 Severability. The sections and portions of this Ordinance shall be deemed severable. Should any section, clause, or provision of this Ordinance ever be declared to be invalid, in whole or in part, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the section, clause, sentence, or provision declared to be invalid.

Section 10 Effective Date. This Ordinance shall be take effect thirty (30) days after this Ordinance or a summary thereof is published in the newspaper as provided by law.

Section 11 Repeal. This ordinance shall repeal any prior Sherman Township Junk or Junk Control Ordinance (if one exists) in its entirety, but shall not in any way change or alter the Sherman Township Zoning Ordinance, as amended, and shall not supplement any similar provisions (if any) in that Zoning Ordinance.

The forgoing Ordinance (#28) was offered by Township Board Member Smalligan, supported by Township Board Member Derks, the vote being as follows:

YEAS: Derks, Obits, Smalligan

NAYS: Stocking, Stroven

ABSENT/ABSTAIN: none

Ordinance declared adopted.

Murry D Stocking

Murry D Stocking, Sherman Township Clerk

Adopted Nov 3, 2003

SHERMAN TOWNSHIP
NEWAYGO COUNTY

(ORDINANCE NO. 30)

AN ORDINANCE TO REGULATE AND CONTROL NOISE AND
NUISANCES, BOTH ON PUBLIC AND PRIVATE PROPERTY, AND
TO PROVIDE FOR PENALTIES FOR VIOLATION OF THIS
ORDINANCE.

THE TOWNSHIP OF SHERMAN ("Township") ORDAINS:

Section 1. Noise Violations.

(a) Generally. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the Township, including, but not limited to the noises enumerated in this Section 1.

(b) Horns and Signal Devices. The sound of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion except as a danger signal if another vehicle is approaching apparently out of control or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal devise of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary or unreasonable period of time are all unlawful.

(c) Musical Instruments; Electronically Amplified Sound. It shall be unlawful to play any musical instrument or allow any electrically or electronically produced, reproduced or amplified sound to emanate from any place or premises between the hours of 10:00 p.m. and 7:00 a.m., so as to be heard more than one hundred (100) feet from the property line of such place or premises or so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling or other residence, or other place of employment or repose. This provision shall not be applicable to community events approved by the Township.

(d) Shouting and Whistling. Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets, between the hours of 10:00 p.m. and 7:00 a.m., or the making of any such noise at any place at any time so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any person in the vicinity is unlawful.

(e) Whistle or Siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire, emergency, or danger is unlawful.

(f) Engine Exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud explosive noises therefrom is unlawful.

(g) Construction Noises. Except for government projects, it shall be unlawful to erect, excavate, demolish, alter or repair any structure, or excavate any street or highway, other than between the hours of 7:00 a.m. and 10:00 p.m., without first obtaining a permit from the Township.

(h) Noise or Commotion in Vehicles. To make a commotion or make unnecessarily loud noises in vehicles, whereby the peace and good order of the neighborhood is disturbed, or where persons owning or occupying property in the neighborhood are disturbed or annoyed is unlawful.

(i) Sound Trucks. To operate or cause to be operated a sound truck or vehicle with radio or amplifier within the Township, without first having obtained a permit therefor from the Township is unlawful.

(j) Sound System in Parked or Moving Motor Vehicle. No person operating or in control of a parked or moving motor vehicle (including motorcycles and mopeds) shall operate or permit the operation of an electronically-amplified sound system in or about the vehicle so as to produce sound that is clearly audible at a distance of fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 10:00 p.m., or clearly audible at a distance of twenty-five (25) feet from the vehicle between the hours of 10:00 p.m. and 7:00 a.m.

(k) Power Chain Saw Noise. Power chain saws operated by internal combustion engines shall not be utilized between the hours of 10:00 p.m. and 7:00 a.m., unless a permit therefor is first obtained from the Township.

(l) Barking Dogs and Animal Noises. The keeping or possession of any dog, animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person or shall cause a disturbance of the peace, shall be unlawful.

(m) Exceptions. None of the prohibitions contained in this Section 1 shall apply to or be enforced against:

(i) Any authorized emergency vehicle when responding to an emergency call.

(ii) Necessary excavations or repairs of bridges, streets or highways by or on behalf of the Township, county or state during the night, when the public safety, welfare and convenience renders it impractical to perform such work during the day.

(iii) The reasonable use of stationary amplifiers or loud speakers in the course of public addresses which are noncommercial in character.

(iv) Normal farm operations which are in compliance with all applicable state laws and requirements.

Section 2. **Littering.** No person shall litter.

Section 3. **Disturbance of the Peace Offenses.** No person shall:

(a) Create or engage in any disturbance, fight or quarrel in any public place, except in reasonable self-defense when attacked without reasonable provocation or in reasonable defense of another who was so attacked.

(b) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct or language.

(c) Without proper authority, conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public.

(d) Disturb or unreasonably interfere with any service of worship or any other assembly gathered for lawful purposes.

(e) Incite, cause, or attempt to incite or cause any assembled group of persons to act in a manner that is likely to or does endanger the safety of another person or of property.

Section 4. **Prohibition of Certain Nuisances.**

(a) **Smoke.** No person who is responsible for any chimney or smoke stack shall permit the omission therefrom, within the Township, dense smoke or smoke containing soot or other substances in sufficient quantity to permit a noticeable deposit thereof.

(b) **Creation of Noxious or Offensive Odors.** No person shall permit any item or matter to putrefy or decay, or be burned so as to cause, nor shall he or she in any other manner cause or occasion, noxious or offensive odors, fumes or gases in any place or places within the Township in such manner as to imperil the health or safety of any person or persons or so as to disturb unnecessarily and without reasonable cause the comfort of any person or persons within the Township.

(c) Dangerous Structures.

(i) No person shall own, keep, allow or maintain any building or structure which is unsafe or a menace to the health, morals or safety of the public.

(ii) Such nuisances may be abated, and the cost of abating such nuisances may be charged against the premises and the owner thereof by the Township pursuant to a lien.

(d) Abandoned Refrigerators and Airtight Containers. No person shall have in his or her possession, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or any other similar airtight container of any kind large enough for a child to enter which has a snap, latch or other locking device thereon, without first removing the snap, latch or other locking device, or the doors, from such icebox, refrigerator, or other airtight container, in such a fashion as to render such container safe.

(e) Un-groomed vegetation:¹ *The following acts and conditions, when performed or existing upon any property, lot, or parcel of land within the Lake Residential and Suburban Residential within the Township of Sherman, are declared unlawful and are defined as and declared to be public nuisances which are injurious to the public health, safety, and welfare and/or have a tendency to degrade the aesthetic appearance and property values of or injure or potentially injure surrounding property: Dead, decaying or hazardous trees, overgrown grass, weeds or other vegetation dangerous to the public safety and welfare or which constitute a fire hazard. (this section added June 1, 2009)*

(f) No person shall create, exacerbate, maintain, or permit to be maintained a nuisance within the Township.

Section 5. Penalties. A violation of this ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this ordinance, shall be in violation of this ordinance and shall be responsible for a civil infraction violation. The civil fine for a municipal civil infraction violation hereunder shall be not less than \$100, in addition to all other cost, damages, expenses and remedies provided by law. Increased civil fines may be imposed for subsequent violations by a person of any requirement or provision of this ordinance. The fine for any offense which is a first repeat offense shall be not less than \$200, plus costs. A fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs. For purposes of this section, "subsequent offense" means a violation of the provisions of this ordinance (or substantially similar ordinance) committed by the same person within 12 months of a previous violation of the same provision of this ordinance (or substantially similar ordinance) or similar provision of this ordinance for which said person admitted responsibility or was adjudged to

be responsible. Each day during which any violation continues shall be deemed a separate offense. The Township shall have the option of pursuing both civil infraction ticket proceedings and legal and/or equitable relief in a court of competent jurisdiction.

Section 6. **Severability**. The sections and provisions of this ordinance shall be deemed severable. Should any section, clause or provision of this ordinance ever be declared to be invalid, in whole or in part, the same shall not effect the validity of this ordinance as a whole or any part thereof, other than the section, clause, sentence or provision declared to be invalid.

Section 7. **Effective Date**. This ordinance shall take effect thirty (30) days after this ordinance or a summary thereof is published in the newspaper as provided by law.

The forgoing ordinance was offered by Board Member Smalligan, and was supported by Board Member Derks, the vote being as follows:

YEAS: Derks, Obits, Smalligan, Stocking, Stroven

NAYS: None

ABSENT: None

ORDINANCE DECLARED ADOPTED.

Murry D Stocking

Murry D. Stocking, Township Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Sherman Township Board at a regular meeting held on June 4, 2004, at the Township Hall pursuant to the required statutory procedures.

Respectfully submitted by:

Murry D Stocking

Murry D. Stocking, Township Clerk

¹Section 4, (e) added June 1, 2009.

Sherman Township
Newaygo County, Michigan
Ordinance #32

AN ORDINANCE TO AMEND THE SHERMAN TOWNSHIP ZONING
ORDINANCE, AS AMENDED, REGARDING CERTAIN WATER WITHDRAWALS.

The township of Sherman ("Township") ordains;

Article 1; A new and additional Section 3.4 (entitled "Water Withdrawals") is hereby added to the Sherman Township Zoning Ordinance, as amended, to read in full as follows;

SECTION 3.4 Water Withdrawals

The drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for consumption or use, other than on the property where the water is originally located is only allowed in the C Commercial District if approved as a special use pursuant to subsection 14.02(25) of this Ordinance. This includes, but is not limited to, canning operations, bottled water operations or uses (including the drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for the same) and the transportation of water originating within Sherman Township to a place located outside of Sherman Township. Notwithstanding that such drawing, gathering, pumping, or removal of waters is allowed only within the C Commercial District and in no other zoning districts under this Ordinance, the drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for farming and bona fide agricultural uses is allowed in any zoning district within this Ordinance where such farm or agricultural uses are permitted and the water is not transported out of its watershed of origin.

Article 2: A new and additional subsection 25 is hereby added to Section 14.02 of Article XIV, to read in full as follows;

SECTION 14.02 Use Regulations

Subsection 25: The drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for consumption or use, other than on the property where the water is originally located. This includes, but is not limited to, canning operations, bottled water operation(s) and uses (including any well, pipe or transport pipeline, generator, well house, storage tank/facility, pumphouse, factory, or other structure or item related or associated thereto) and the transportation of water originating within Sherman Township to a place located outside of Sherman Township.

Article 3: Severability. Should a court of competent jurisdiction ever find any provision, clause, or portion of this ordinance/ordinance amendment to be invalid, the balance or remainder of this ordinance/ordinance amendment shall remain valid and in full force and effect and shall be deemed "severable" from the portion, clause, or provision deemed to be invalid by the court.

Article 4: Effective Date. This ordinance/ordinance amendment shall become effective August 11th, 2007.

Article 5: Except as expressly amended by this ordinance/ordinance amendment, the balance of the Sherman Township Zoning Ordinance, as amended, shall remain unchanged and in full force and effect.

This Ordinance 32 (amendment to Zoning Ordinance) is declared adopted July 2, 2007.

Signed: Murry D Stocking, clerk

SHERMAN TOWNSHIP; NEWAYGO COUNTY

Ordinance #33

**An ordinance to regulate and control open burning and outdoor
furnaces in Sherman Township**

EFFECTIVE SEPT. 15, 2007

SECTION I. PURPOSE

This ordinance is intended to promote the public health, safety and welfare, and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Sherman Township.

SECTION II. APPLICABILITY

This ordinance applies to all outdoor furnaces and open burning within Sherman Township.

- 2.1. This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- 2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION III. DEFINITIONS

- 3.1. Outdoor furnace means any device or structure that is designed, intended or used to provide heat and or hot water to any residence, building or structure which operates by burning of solid fuel and is not located entirely within a residential dwelling or other building for which it provides heat and or hot water.
- 3.2. "Open Burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air.
- 3.3. "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure-treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- 3.4. "Campfire" means a small, controlled fire used for cooking or recreation.
- 3.5. Construction waste means building waste materials, including but not limited to waste shingles, insulation, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction remodeling, repair and demolition of a house or other building.
- 3.6. "Household waste" includes, but is not limited to, paper products.

SECTION IV. REGULATIONS FOR OUTDOOR FURNACES

- 4.1. No outdoor furnace shall be located or utilized in the **LAKE RESIDENTIAL** or **SUBURBAN RESIDENTIAL** districts of Sherman Township.
- 4.2. Outdoor furnaces may be used in all other districts of Sherman Township, providing the following regulations are met:
 - A. Can only be located in side or rear yards and in no event be located within 25 feet of any lot line of the parcel on which it is located.
 - B. No outdoor furnace shall be installed or located within 30 feet of the principal residence or structure for which it is intended to supply heat and/or hot water.
 - C. The outdoor furnace shall be located at least 200' from the nearest habitable building which is not on the same property as the outdoor furnace.
 - D. Only clean wood or other solid fuel for which the furnace is designed may be burned in the furnace.
 - E. No garbage, household trash, petroleum products, rubber, construction waste or other solid waste shall be burned in such a furnace regardless of design or manufacturer's intended fuel source.
 - F. Replacement of all outdoor furnaces, installed after the effective date of this ordinance, shall comply with all rules and regulations of this ordinance.
 - G. The owner of an outdoor furnace shall obtain all necessary permits required from Local, County or State authorities, including Sherman Township zoning permit.

SECTION V. OPEN BURNING

- 5.1. The burning of household waste is prohibited in the **LAKE RESIDENTIAL** and **SUBURBAN RESIDENTIAL** districts of Sherman Township.
- 5.2. Campfires for cooking, ceremonies or recreation are allowed in all districts of Sherman Township provided they do not cause a nuisance and burn only "clean wood."
- 5.3. In all districts of Sherman Township, open burning of the following materials is prohibited.
 - A. Roofing and or asphalt construction material
 - B. Hazardous substances, including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents
 - C. Furniture and appliances
 - D. Tires
 - E. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers.
 - F. Treated or painted wood, including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

SECTION VI. RIGHT OF ENTRY AND INSPECTION

The Zoning Administrator or any authorized officer, agent, employee or representative of the township of Sherman Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

SECTION VII. ENFORCEMENT AND PENALTIES

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses, and remedies provided by the law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

The forgoing ordinance was offered by Board Member Obits, and was supported by Board member Smalligan, the vote being as follows;

YEAS: Derks, Obits, Smalligan, Stocking

NAYS: Stroven

ABSENT: none

Ordinance is declared adopted and to be effective 30 days after it is published in the newspaper as provided by law.

Murry D Stocking; clerk of Sherman Township

CERTIFICATION

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Sherman Township Board at a regular meeting held August 6th, 2007 at the township hall pursuant to the required statutory procedures.

Submitted by :

Murry D Stocking, Township clerk



Sherman Township, Newaygo County Ordinance #37

Ordinance to Confirm the Establishment of a Planning Commission with Zoning Authority

Preamble

An ordinance to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sherman Township Planning Commission; provide for the composition of that planning commission; provide for the powers, duties and limitations of that planning commission; and repeal any ordinance or parts of ordinances or resolutions in conflict with this ordinance.

THE TOWNSHIP OF SHERMAN, NEWAYGO COUNTY, MICHIGAN, ORDAINS:

Section 1: Scope, Purpose and Intent

This ordinance is adopted pursuant to the authority granted the township board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this ordinance.

The purpose of this ordinance is to provide that the Sherman Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sherman Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (***OR the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.***); to establish the appointments, terms, and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

Section 2: Establishment

The township board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Sherman Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (***OR the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.***). The Sherman Township Planning Commission shall have seven (7) members. Members of the Sherman Township Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member whose remaining term on the planning commission shall be limited to his or her term on the township board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

Section 3: Appointments and Terms

The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member. The planning commission members, other than an ex officio member, shall serve for terms of 3 years each.

A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning commission members shall be qualified electors of the township (**NOTE: U.S. citizen, 18-years old, who has been a resident of the state for 6 months and a resident of the township for at least 30 days**), except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.

For a planning commission formerly established under the Township Planning Act, OR for a planning commission formerly established under the Municipal Planning Act, where the township board wishes to have only one ex officio member:

One member of the township board shall be appointed to the planning commission as an ex officio member.

An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the township board.

No other elected officer or employee of the township is eligible to be a member of the planning commission.

Section 4: Removal

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Section 5: Conflict of Interest

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office.

Section 6: Compensation

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the township board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

Section 7: Officers and Committees

The planning commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission.

Section 8: Bylaws, Meetings and Records

The planning commission shall adopt bylaws for the transaction of business.

The planning commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the planning commission's bylaws, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Section 9: Annual Report

The planning commission shall make an annual written report to the township board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development.

Section 10: Authority to Make Master Plan

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the township board passes a resolution asserting the right to approve or reject the master plan.

Unless rescinded by the township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (***OR the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.***) need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

Section 11: Zoning Powers

If the planning commission existed prior to Sept. 1, 2008, and DID have zoning authority:

The township board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the Sherman Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (***OR the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.***).

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the township board.

Section 12: Capital Improvements Program

Planning commission adopts capital improvements plans:

To further the desirable future development of the Township under the master plan, the Planning Commission, after the master plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.

Section 13: Subdivision and Land Division Recommendations

The planning commission may recommend to the township board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the township.

The planning commission shall review and make recommendation on a proposed plat before action thereon by the township board under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq. Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

Section 14: Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect.

Section 15: Repeal

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Sherman Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (***OR** Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.*) is hereby repealed.

Section 16: Effective Date

This ordinance shall take effect on the date of its publication.

CERTIFICATE

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on June 1st, 2009, and that copies of the ordinance were transmitted and published as directed.

Murry D Stocking
Township Clerk

Robert Sullivan
Township Supervisor

Sherman Township Ordinance #38

AN ORDINANCE TO REGULATE WIND ENERGY SYSTEMS IN THE TOWNSHIP OF SHERMAN, NEWAYGO COUNTY, MICHIGAN

THE TOWNSHIP OF SHERMAN HEREBY ORDAINS:

Section 1.0 TITLE: This Ordinance shall be known as the Wind Energy System Ordinance for the Township of Sherman.

Section 2.0 WIND ENERGY SYSTEM:

PURPOSE: The purpose of this section is to establish standards and procedures by which the installation and operation of any **Wind Energy System (WES)** is to be regulated within Sherman Township:

- A. To promote the safe, effective and efficient use of wind energy in order to reduce the consumption of fossil fuels in producing electricity.
- B. To preserve and protect public health, safety, welfare and quality of life.

DEFINITIONS:

- A. Anemometer: A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a WES at a given site. This definition also includes the tower, base plate, anchors, cables and hardware thereof as well as any instruments and any telemetry devices used to monitor wind speed and flow characteristics over a period of time.
- B. Applicant: The person, firm, corporation, trust, association, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant' successor(s), assign(s), and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the owner of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the owner of the WES.
- C. Decommissioning: The process of terminating operations and removing a WES and all related buildings, structures, foundations, access roads and equipment in accordance with an approved Decommissioning Plan.
- D. Interconnected Wind Energy System: A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.
- E. Nacelle: In a wind turbine, the nacelle refers to the structure which houses all of the generating components, gearbox, drive train and other components.

- F. On-Site Use Wind Energy System: A WES the purpose of which is to provide energy to only the property where the structure is located or to adjacent properties under the same ownership or control as the property where the structure is located or by the mutual consent of the owners of adjacent properties.
- G. Shadow Flicker: The moving shadow created by light/sunlight shining through the rotating blades of a WES. The amount of shadow flicker created is calculated by a computer model that includes turbine location, elevation, tree cover, location of all structures, wind activity and sunlight.
- H. Single Wind Energy System for Commercial Purposes: A single WES placed upon a parcel or parcels with the intent to sell or provide electricity to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which it is placed.
- I. Structure-Mounted Wind Energy System: A WES mounted or attached to an existing structure or building.
- J. Utility Grid Wind Energy Systems: A WES designed and constructed to provide electricity to the electric utility grid.
- K. Wind Farm: Clusters of two or more WES placed upon a lot or parcel (or upon two or more lots or parcels) with the intent to sell or provide electricity to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which it is placed.
- L. Wind Energy System (WES): shall mean any combination of the following:
1. A mill or machine operated by wind acting on oblique vanes, blades or sails that radiate from a horizontal shaft.
 2. A surface area such as a blade, rotor or similar device, either variable or fixed for utilizing the wind for electrical or mechanical power.
 3. A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device.
 4. The generator, alternator or other device used to convert the mechanical energy of the surface area into electrical energy.
 5. The tower, pylon or other structure upon which any, all or some combination of the above are mounted.
- M. Wind Energy System Height: The distance from the ground at normal grade to the highest point of the WES (which is the tip of a rotor blade when the blade is in the full vertical position).

- N. Wind Energy System Setback: The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line, in the case of multiple parcels utilized for multiple of single WES, the setbacks shall be taken from the outside boundaries of the parcels utilized for the WES project.

Section 3.0 TEMPORARY USES:

The following is permitted in all zoning districts if approved as a Special use, in compliance with the provisions contained herein:

A. Anemometers:

1. The construction, installation or modification of an anemometer tower shall require a building permit and shall conform to all local, state and federal requirements.
2. An anemometer shall be subject to the minimum requirements for height, setback, location, safety and decommissioning that correspond to a Wind Energy System.
3. An anemometer shall be allowed for no more than twelve (12) months for any On-Site Use Wind Energy System or thirty-six (36) months for any Wind Energy System.

Section 4.0 PERMITTED USES:

Any On-Site Use Wind Energy System including a Structure-Mounted Wind Energy System, which is sixty-five (65) feet or less in total height (as measured below) **shall be a permitted use in all zoning districts** subject to the following:

- A. Height: The height of a WES with the blade in the vertical position shall not exceed sixty-five (65) feet.
- B. Setback: A WES shall be setback from all lot lines a distance which is equal to 1.1 times the height of the WES as measured from the lot line to the base of the tower and no portion of the WES (including the guy wire anchors) shall be located within or above the required front, side, or rear yard setback.
- C. Structure-Mounted: A Structure-Mounted WES shall have a distance from the nearest property line which is at least equal to 1.1 times the height of the WES as measured from the point of attachment to the structure of building to the top of the WES with the blade in the vertical position.

The blade arcs created by a WES mounted on an existing structure shall have a minimum clearance of eight (8) feet and shall be designed so that the blade or other moving parts do not present a safety hazard.

- D. Permits: A permit shall be obtained from Sherman Township to construct and operate an On-Site Use WES sixty-five (65) feet or less in total height. A permit shall be issued after an inspection of the plans and specifications for the WES by Sherman Township or an authorized agent of the Township; and where said inspection finds that the proposed WES complies with all this ordinance,

applicable State Construction and Electrical Codes, local building permit requirements and all manufacturers' installation instructions.

The WES shall not be installed, operated nor remain on the property unless a permit has first been issued by the Township. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.

- E. Electrical Power: An On-Site Use Wind Energy System may provide electrical power to more than dwelling unit, provided that the dwelling units are located on property or properties that are adjacent to the property or properties on which the WES is located.

Section 5.0 SPECIAL USE:

The following uses may be allowed if a Special Use is granted pursuant to the regulations contained in Article XVII of the Sherman Township Zoning Ordinance:

- (1) Any Wind Energy System (including a Structure-Mounted WES) which is **greater than 65 feet in height**.
- (2) Wind Farms.
- (3) Single Wind Energy Systems for Commercial Purposes.
- (4) Utility Grid Wind Energy Systems.

- A. Site Development Plan Requirements: For those WES for which a Special Use is required, the following items shall be included with or on the site plan:

- (1) All requirements for a site plan as contained in Article XVIII of the Sherman Township Zoning Ordinance, including the area and dimensions of the site to be purchased or leased for the WES.
- (2) A location map of the proposed WES in sufficient detail to show the character of the area surrounding the proposed site.
- (3) Location and height of all existing or proposed buildings, structures, boundary lines, electrical lines, towers, guy wires, guy wire anchors, security fencing and any other above-ground structures either existing or proposed on the parcel or parcels containing the WES.
- (4) Specific distances from the WES structures to all other buildings, structures, boundary lines and above-ground utilities on the parcel or parcels upon which the WES is proposed to be located.
- (5) Location of all existing overhead and underground electrical transmission or distribution lines located on the property upon which the WES is proposed to be located, as well as within 300 feet of the boundaries of the parcel. The applicant shall provide to the Township as-built drawings of all electrical transmission lines constructed to serve the WES.

- (6) Location, height and type of all buildings and structures and the elevations of all existing and proposed structures within 300 feet of the parcel upon which the WES is proposed to be located.
- (7) All existing land uses within 300 feet of the parcel.
- (8) Access drives to the WES, including dimensions and composition, with a narrative describing proposed maintenance of the drives.
- (9) All lighting proposed for the site, including diagrams or specifications of lighting fixtures proposed.
- (10) Security measures proposed to prevent unauthorized trespass.
- (11) Standard drawings of the structural components of the WES including structures, towers, bases and footings. A registered engineer shall certify drawings and any necessary calculations demonstrating that the system complies with all applicable federal, state and local building and structural codes.
- (12) A narrative describing the proposed WES, including an overview of the project, the approximate generating capacity of the WES, the number, representative types and height or range of heights of the WES to be constructed, including their generating capacity and respective manufacturers and a description of ancillary facilities.
- (13) Other relevant studies, reports, certifications and approvals as may be reasonably requested by Sherman Township to ensure compliance with this Ordinance.

B. Other Requirements:

- (1) Height: A WES shall be set back from all lot lines a distance which is at least equal to 1.1 times the height of the WES as measured from the lot line to the base of the tower. No part of a WES, including guy wire anchors shall be located within or above any required front, side or rear yard setback.
- (2) Rotor or Blade Clearance: Blade arcs shall have a minimum of thirty (30) feet of clearance over and from any structure adjoining property or tree.
- (3) Lighting: Lighting shall be provided as required by the FAA or other applicable authority, and as necessary for the reasonable safety and security of the facility.

- (4) Maintenance Program: The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a schedule of maintenance tasks to be performed.
- (5) Decommissioning Plan: The Planning Commission shall require that a Decommissioning Plan be submitted to the Township for approval. The plan shall consist of a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES becomes obsolete or abandoned. Decommissioning shall include the removal of the WES, buildings, cabling, electrical components, foundations to a depth of 48 inches and any other associated facilities.

C. Visual Appearance:

- (1) A WES shall be designed and constructed in such a manner so as to minimize adverse visual and noise impacts upon neighboring properties.
- (2) WES's shall be either monopole or monolithic tube, non-reflective and non-obtrusive in color, such as white, off-white or gray.
- (3) A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation and appearance throughout the project.

D. Inspections: The Township shall have the right to enter upon the WES premises at all reasonable times with the permission of the property owner. The Township may hire a consultant to assist with any inspections, at the applicant's cost.

E. Insurance: The WES operator shall maintain a current liability insurance policy or present proof of adequate liability insurance coverage provided by self insurance or other means, in an amount equal to the installation and operation of the WES.

F. Performance Guarantee: If a Special Use is approved pursuant to this section, the Planning Commission may require monetary security in the form of a cash deposit, surety bond or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with the section and any conditions of approval.

G. Sound Pressure Level – Wind Energy System: Noise from a Wind Energy System shall not exceed 55 dBA as measured at the dwelling unit located closest to the WES on any adjacent property, unless the dwelling unit of property owner

has provided a written waiver of the noise requirement. The sound pressure level may be exceeded during short-term events such as severe wind storms.

- H. Sound Pressure Level – Utility Grid Systems or Wind Farms: Utility Grid Systems and Wind Farms shall be subject to the sound pressure level requirements stated above. In addition, the applicant shall provide modeling and analysis that will demonstrate that the Utility Grid System or Wind Farm will not exceed the maximum permitted sound pressure.
- I. Shadow Flicker: The Planning Commission may require that the applicant perform an analysis of potential shadow flicker. The analysis shall identify locations of shadow flicker that may occur and shall describe measures such as screening that shall be taken to eliminate or minimize the shadow flicker.
- J. Construction Codes, Interconnection Standards, Federal, State and Township Codes:
Every WES shall comply with:
- (1) All applicable State and Local construction and electrical codes and local building permit requirements.
 - (2) Federal Aviation Administration requirements.
 - (3) Regulations for public or private landing strips in or adjacent to Sherman Township.
 - (4) Regulations of the Michigan Public Service Commission and/or the Federal Energy Regulatory Commission if the WES is an interconnected system.
- K. Safety:
- (1) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
 - (2) To prevent unauthorized access, each WES must comply with at least one of the following provisions and more than one if required by the Planning Commission:
 - a. The tower climbing apparatus shall not be located within 12 feet of the ground.
 - b. A locked, anti-climb device shall be installed and maintained.
 - c. A tower capable of being climbed shall be enclosed by a locked, secure fence at least ten feet in height with barbed wire fence.
 - (3) All WES shall have lightning protection.

- (4) If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least ten feet above the guy wire anchors.
- (5) The minimum height of the lowest position of the rotor or blade shall be at least 30 feet above the ground.

L. Signs:

- (1) Each WES shall have one sign not to exceed two square feet posted at the base of the tower, or if the structure is fenced it shall be located on the fence. The sign shall include the following information:
 - a. The words, "Warning – High Voltage".
 - b. Emergency contact telephone numbers.
 - c. The name, address, telephone number and email address of the operator of the WES.
- (2) A WES shall not include any advertising of any kind, except the nacelle may have lettering that indicates the manufacturers and/or owners name/identification.

M. Electromagnetic Interference: All WES shall be designed, constructed and operated so as not to cause radio or television interference.

N. Access Roads: Each WES shall be served by a road or drive that provides ready, dependable access in the event of an emergency. Private roads shall be constructed to Sherman Township's private road standards.

O. Maintenance: Every WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
All distribution lines from the WES shall be located and maintained underground, both on the property where the WES is located and off-site. The Planning Commission may waive the requirement that distribution lines for the WES which are located off-site (i.e. – not located on or above the property where the WES will be located) be located and maintained underground if the Planning Commission determines that to install, place or maintain such distribution lines underground would be impractical or unreasonably expensive.

Section 6.0 VIOLATIONS AND PENALTIES:

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200)

for subsequent offenses in the discretion of the Court in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provisions of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 7.0 SEVERABILITY:

The provisions of this ordinance are declared to be severable. If in the holding of any court of competent jurisdiction that any section hereof is invalid, it shall not impair or invalidate any other section.

Section 8.0 EFFECTIVE DATE:

This ordinance will become effective 30 days after publication.

The forgoing ordinance was offered by Board Member Stocking, and was supported by Board member Smalligan, the vote being as follows;

YEAS: Derks, Smalligan, Stocking, Stroven, Sullivan

NAYS:

ABSENT: None

Ordinance is declared adopted and to be effective 30 days after it is published in the newspaper as provided by law.

Murry D Stocking

Murry D Stocking; Clerk of Sherman Township

Adopted August 3rd, 2009

ORDINANCE ADDRESSING FLOODPLAIN MANAGEMENT PROVISIONS

39

OF THE STATE CONSTRUCTION CODE

Community Name: Sherman Township, Newaygo County:

Ordinance number 39.

An Ordinance to designate an enforcing agency to discharge the responsibility of the Newaygo County, Township of Sherman located in Newaygo County, and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

The Township of Sherman ordains:

Section 1. AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the Township of Sherman is hereby designated as the enforcing agency to discharge the responsibility of the Township of Sherman under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The Township of Sherman assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance.

Section 2. CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the Township of Sherman.

Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Study currently does not exist and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of Currently not in existence are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

Section 4. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 5. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

Adopted this 6th day of December, 2010.

This ordinance duly adopted on December 6th, 2010 at a regular meeting of the Sherman Township Board and will become effective March 1st, 2011.

Signed on January 11th, 2011 by *Murry D Stocking*, Murry D Stocking, Clerk of the Township of Sherman

Attested on January 11th, 2011 by *Robert Sullivan*, Robert Sullivan, Supervisor of the Township of Sherman.

Sherman Township Cemetery Ordinance #40
THE TOWNSHIP OF Sherman, Newaygo COUNTY, MICHIGAN, ORDAINS:

Section 1: Title

This ordinance shall be known and cited as the Sherman Township Cemetery Ordinance #40

Section 2: Definitions of Cemetery Lots and Burial Spaces

- a. A cemetery lot shall consist of burial spaces sufficient to accommodate from one to four burial spaces.
- b. An adult burial space shall consist of a land area four (4) feet wide and ten (10) feet in length.
- c. An infant or stillborn burial space shall consist of a land area three (3) feet wide and three and one half (3 ½) feet in length in areas set aside specifically for such burials.

Section 3: Sale of Lots or Burial Spaces

All sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial space sold.

Section 4: Purchase Price, Transfers, and Fees

- a. Lot prices and transfer fees shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township. A list of these charges is available from the Sexton or clerk.
- b. Lots are to be sold only back to the Sherman Township Cemetery and only for the original price paid for the lot. A lot owner may give two (2) lots to any other party (for no cost) one time only. The party receiving the lots may not transfer them to a third party. A new Right to Burial will be issued for the lots transferred and those remaining. A fee of \$25.00 will be charged for all lot transfers to cover the issuing of new Right to Burial.

Section 5: Grave Opening Charges

- a. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township. A list of these charges is available from the Sexton or clerk.
- b. No burial spaces shall be opened and closed except under the direction and control of the Cemetery Sexton. This provision shall not apply to proceedings for the removal and re-interment of bodies and remains, which matters are under the supervision of the local health department.
- c. A former resident of the township who is confined to a nursing home will be considered a resident for the purposes of burial cost provided a property is owned in the township by the person.

Section 6: Markers or Memorials

- a. No monument or marker shall be erected on any lot until the lot shall have been paid for in full and Right to Burial issued. Persons desiring to set monuments, headstones, or other structures will first get permission from the Sexton. All foundations and footings shall be installed by the Sexton or under his supervision.
- b. No monument or other like structure shall be more than forty (40) inches above the ground level nor wider than 50 inches. All monuments must be located upon a suitable foundation to maintain the same in an erect position. Only one monument, marker or memorial shall be permitted per burial space.
- c. Foundations for all monuments, headstones, or other structures must be at least one foot below the surface of the lot and be built of cement concrete material.
- d. A concrete vault or concrete box shall be required for all burials. All material coming under the rules governing monuments must be inspected and must comply with all cemetery rules before entering the grounds.
- e. Mason, stone cutters, and all other workmen shall at all times be under the supervision of the Sexton and must carry off all rubbish and restore avenues and paths injured by their operations as he shall direct. Any workman failing to conform to these regulations may be excluded from the grounds and the person employing him shall be responsible for the damage sustained thru his neglect.
- f. All markers or memorials must be of stone. No wooden, plastic, metal, or cement benches or chairs are allowed in the cemetery as markers or memorials.

- g. All monuments must be located upon a suitable foundation to maintain the same in an erect position. Only one monument, marker or memorial shall be permitted per burial space.
- h. The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the Township at cost to the owner of the burial right. Footings are poured 2 times a year, in May and September.

Section 7: Interment Regulations

- a. Only one person may be buried in a burial space except for a mother and infant or two children buried at the same time.
- b. Not less than 48 hours notice shall be given in advance of any time of any funeral to allow for the opening of the burial spaces.
- c. The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to the Sexton prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- d. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

Section 8: Ground Maintenance

- a. No stones, mulch, bark, or similar material shall be placed around headstones or grave sites.
- b. No spreading flowers (such as iris, hen & chicks, lily of the valley, etc), rose bushes, or shrubs with thorns of any type shall be planted. Any of the foregoing items planted may be removed by the Township or the Cemetery Sexton.
- c. No arbors or trellis may be put in the cemetery. Headstones must be in a straight line at the head of the grave, no foot stones or stones in the middle of the grave.
- d. No fences or curbing of any kind will be permitted around graves, nor any cement covered graves above ground.
- e. The Township Board reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- f. The Cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem.
- g. The right to remove or modify any improvement on any lot which the Township Board considers injurious to the general good of the cemetery or the adjacent lot shall be maintained and enforced, both before and after internments are made.
- h. All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

Section 9: Forfeiture of Vacant Cemetery Lots or Burial Spaces

- a. Cemetery lots or burial spaces sold after the effective date of the ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:
- b. Notice shall be sent by the Township Clerk by first class mail to the last known address of the last owner of record informing him of the expiration of the 40-year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the within notice his desire to retain said burial rights.
- c. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of said notice.

Section 10: Repurchase of Lots or Burial Spaces

Lots are to be sold only back to the Sherman Township Cemetery and only for the original price paid for the lot. A lot owner may give two (2) lots to any other party (for no cost) one time only. The party receiving the lots may not transfer them to a third party. A new Right to Burial will be issued for the lots transferred and those remaining. A fee of \$25.00 will be charged for all lot transfers to cover the issuing of new Right to Burial.

Section 11: Records

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

Section 12: Vault

All burials shall be within a standard concrete vault installed or constructed in each burial space before interment.

Section 13: Penalties

Any person, firm or corporation who violates any of the provisions of the within ordinance shall be guilty of a misdemeanor and shall be subject to a fine of up to \$100.00 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

Section 14: Severability

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

Section 15: Conduct in cemetery and funeral vehicles

- a. All persons are strictly prohibited from plucking any flowers, either wild or cultivated, breaking any trees, shrubs, or plants, writing on or injuring any monument, fence, or structure within the cemetery.
- b. All persons with interest in the cemetery should confine themselves to the walks and drives as much as possible. Persons shall conduct themselves with dignity at all times in the cemetery.
- c. The speed of cars and other vehicles in the cemetery shall not be in excess of fifteen (15) miles per hour. All trucks with monumental material must be confined to the roads as much as possible.
- d. Persons driving in the cemetery will be held responsible for all damage done by their negligence.
- e. All funeral processions while in the cemetery shall be under the entire control of the Sexton.

Section 16: Effective Date

This ordinance shall take effect on March 1st, 2011. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Motion by Stroven, 2nd by Derks to adopt ordinance #40 , Sherman Township Cemetery Ordinance.

YEAS: Derks, Smalligan, Stocking, Stroven, Sullivan

NAYS: None

Adopted January 3rd, 2011.

Signed, Murry D Stocking, clerk

VOID

**SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
ORDINANCE NO. 41**

At a regular meeting of the Township Board for Sherman Township held at the Township Hall on April 4th, 2011, beginning at 7:00pm, the following Ordinance was offered for adoption by Township Board Member Smalligan, and was seconded by Township Board Member Derks:

AN ORDINANCE TO IMPOSE A MORATORIUM THROUGHOUT SHERMAN TOWNSHIP ON THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR THE SALE OR DISPENSATION OF MEDICAL MARIHUANA, AND TO PROHIBIT THE SALE OF MEDICAL MARIHUANA

THE TOWNSHIP OF SHERMAN (the "Township") ORDAINS:

Section 1. Findings. In accordance with Act No. 110 of the Public Acts of 2006, as amended, and Act No. 279 of the Public Acts of 1909, as amended, Sherman Township has determined that:

1. The provisions of the Township's Zoning Ordinance and other ordinances (collectively, "Ordinances") have not kept pace with recent developments and the passing into law of Initiated Law 1 of 2008, the Michigan Medical Marihuana Act.
2. It is within the rights and authority of Sherman Township to establish reasonable regulations to control the sale, consumption, distribution and dispensation of medical marihuana in order to protect the public health, safety and welfare in a manner consistent with the Michigan Medical Marihuana Act.
3. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow time for review of and potential amendments to the Ordinances.
4. During this moratorium period, the Township Board and Planning Commission will investigate potential modifications to the Ordinances that may establish reasonable regulations to control the possession, sale, and dispensation of medical marihuana in order to protect the public health, safety and welfare.

Section 2. Administrative Action. A moratorium is hereby imposed upon the issuance of any Township permit, license, variance, or similar approval for the sale, distribution or dispensation of medical marihuana within Sherman Township, so long as this Ordinance is in effect. During the moratorium term specified in this Ordinance, no Township official, employee, body, or agent shall issue any such permit, license, variance or other approval.

Section 3. Prohibition on the Sale or Dispensation of Medical Marihuana. No sale, distribution or dispensation of medical marihuana shall occur within Sherman Township pursuant to the Michigan Medical Marihuana Act (or any other law or statute) while the moratorium imposed by this Ordinance is in effect. Such prohibition shall not apply to the direct dispensation by a primary caregiver of medical marihuana to that primary caregiver's registered qualifying patient if fully lawful under the Michigan Medical Marihuana Act as well as all other applicable state and federal statutes. The prohibition contained in this Section 3 shall apply to the sale, transport or dispensation of marihuana by anyone other than a primary caregiver administering directly to that primary caregiver's qualifying patient in full compliance with the Michigan Medical Marihuana Act.

Section 4. Term of This Ordinance. The moratorium imposed by this Ordinance shall remain in effect for six (6) months following the effective date of this Ordinance or until

amendments to Sherman Township's Ordinances regarding the sale, distribution or dispensation of medical marihuana become effective, whichever occurs first. Prior to the expiration of the six-month moratorium, Sherman Township may extend the moratorium for an additional six months to allow sufficient time to complete any such amendments to the Ordinances.

Section 5. Effective Date. This Ordinance is declared to be an emergency ordinance and shall become effective the day following its publication in a newspaper of general circulation within the Township.

The vote in favor of this Ordinance was as follows:

YEAS: Derks, Smalligan, Stocking, Stroven, Sullivan

NAYS: None

ABSENT/ABSTAIN: None

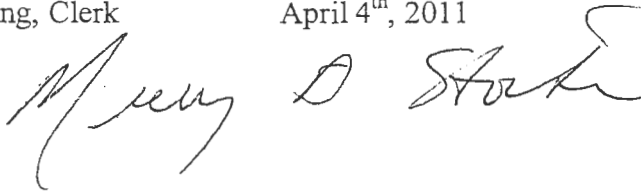
CERTIFICATION

I hereby certify that the above is a true copy of an emergency Ordinance adopted by the Township Board for Sherman Township at the time, date, and place specified above pursuant to the required statutory procedures.

Murry D Stocking, Clerk

April 4th, 2011

Murry D Stocking

A handwritten signature in cursive script that reads "Murry D Stocking". The signature is written in dark ink and is positioned to the right of the printed name "Murry D Stocking".

**SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(Ordinance No. 42)**

At a regular meeting of the Sherman Township Board held at the Township offices on November 7th, 2011, the following Ordinance was offered for adoption by Township Board Member Smalligan, and was seconded by Township Board Member Stroven:

**AN ORDINANCE REGARDING THE REGULATION OF
MEDICAL MARIHUANA, MEDICAL MARIHUANA
DISPENSARIES, AND RELATED USES AND ACTIVITIES**

THE TOWNSHIP OF SHERMAN ("Township") ORDAINS:

ARTICLE 1. PURPOSE AND INTENT

The voters of the state of Michigan adopted the Medical Marihuana Act, being Public Act 2008, Initiated Law 1, MCL 333.26421 *et seq.*, which became effective on December 4, 2008. That statute fails to regulate many aspects associated with the possession and use of medical marihuana, including, but not limited to, the distribution, sale, consumption, smoking and processing of medical marihuana. The Township Board finds that there are many negative impacts associated with the use and dispensing of marihuana (including medical marihuana) which can include burglaries, robberies, violence, increased vandalism, illegal sales of marihuana, and use of marihuana by minors and other persons without medical need. Furthermore, the unregulated sale and distribution of medical marihuana can create many problems in the areas adjacent to medical marihuana sales, usage or processing, including threats to the public peace and undermining of Township efforts to safeguard the health, safety and welfare of the residents and property owners of the Township and the public at large.

ARTICLE 2. DEFINITIONS

The following words, terms and phrases shall have the following meanings for purposes of this Ordinance:

A. "Act" means the Michigan Medical Marihuana Act, Public Act 2008, Initiated Law 1, being MCL 333.26421 *et seq.*, as well as any and all amendments thereto, and also any legislation enacted into law to implement that statute.

B. "Marihuana" is also known as Marijuana and Cannabis.

C. "Medical Marihuana Dispensary" means any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
3. Members of the general public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public or government property.

A medical marihuana dispensary does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law 1 of 2008, as amended (being MCL 333.26421 *et seq.*, as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Sherman Township Zoning Ordinance and this Ordinance but all applicable Michigan and federal laws and regulations.

D. "Medical Use of Marihuana" Is the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined by the Act.

E. "Primary Caregiver" shall be as defined by the Act.

F. "Qualifying Patient" shall be as defined by the Act.

ARTICLE 3. PROHIBITION ON MEDICAL MARIHUANA DISPENSARIES

No medical marihuana dispensary shall be commenced, conducted, maintained, operated or utilized anywhere within Sherman Township or on or from any property, land, building or structure within and from Sherman Township. Furthermore, no person shall frequent, patronize or obtain or purchase any marihuana from or through any medical marihuana dispensary within Sherman Township.

ARTICLE 4. GENERAL REGULATIONS REGARDING PRIMARY CAREGIVER RESIDENCES

The following regulations generally pertain to the residence of a primary caregiver:

A. The primary caregiver may grow and process marihuana in compliance with the Act within the residential dwelling where the primary caregiver lives and is the primary caregiver's residence pursuant to Michigan law. No such residential dwelling of the primary caregiver shall be located within an apartment building, multi-family residential building or similar housing building or development, but rather, shall occur only within a detached lawful single-family residential dwelling.

B. No person other than the members of the immediate family of the primary caregiver residing within the residence of that primary caregiver (and no person under 18 years of age) shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of the marihuana.

C. Use of the residential dwelling (which is the residence of the primary caregiver) for marihuana related purposes shall be clearly incidental and subordinate to its use for single family residential purposes. Not more than 25% of the gross finished floor area of the dwelling shall be used for the growing, processing and handling of the marihuana. No part of an accessory building, detached garage, pole barn or similar building or structure shall be used for the growing, processing, or distribution of marihuana.

D. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana;

rather, the primary caregiver must personally deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient.

E. No person shall deliver marihuana to a qualifying patient other than the primary caregiver for that qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.

F. There shall be no visible change to the outside appearance of the primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling.

G. No marihuana, marihuana plants, marihuana paraphernalia or plant growing apparatus shall be visible from the exterior of the dwelling.

H. No growing, processing, smoking or use of marihuana shall occur outdoors. All medical marihuana growing, processing and handling shall occur entirely within the dwelling.

I. No sale or distribution of merchandise or products shall be conducted on, within or from the dwelling or residential premises (including the lot or parcel involved) of the primary caregiver apart from the medical marihuana itself.

J. No equipment or process shall be used in growing, processing or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver off the premises or causes fluctuation of line voltage off the premises. The dwelling of the primary caregiver shall meet all building, housing, fire and local and state codes and ordinance requirements.

K. The growing, processing, distribution, sale and handling of medical marihuana shall comply at all times and all circumstances with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

L. The residence for the primary caregiver shall be located more than 1,000 feet from any school, church or library as defined by Michigan law to ensure community compliance with federal "Drug-Free School Zone" requirements and to minimize negative impacts.

M. Not more than one (1) primary caregiver shall be permitted to grow, process or handle medical marihuana at or from a given dwelling unit.

N. All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off site) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under eighteen (18) years old shall not have any access to any medical marihuana.

O. No on-site consumption or smoking of marihuana is allowed within the residence (or on the lot or parcel) of a primary caregiver except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with the Act.

P. No medical marihuana shall be grown, processed or handled at, from or through the residence of the primary caregiver beyond that which is needed or allowed by law (whichever is less) for the qualifying patients of that particular primary caregiver.

Q. No sign identifying the dwelling as being a place where medical marihuana is grown, sold, processed, kept, or distributed shall be visible outside of the dwelling or within any of the windows of the dwelling.

ARTICLE 5. REGULATIONS REGARDING QUALIFYING PATIENTS

A. A primary caregiver is required to deliver marihuana to his/her qualifying patients at the residence where the particular qualifying patient resides. A qualifying patient shall not go to the residence of their primary caregiver to purchase, obtain, smoke or consume marihuana.

B. Use of marihuana by a qualifying patient shall fully comply with this Ordinance and the Act.

ARTICLE 6. REQUIRED COMPLIANCE WITH FEDERAL LAW

A. Nothing in this Ordinance is intended to grant, nor shall any provisions of this Ordinance be construed as granting, immunity from prosecution for the growing, sale, consumption, use, smoking, distribution or possession of marihuana which is not in strict compliance with the Act, this Ordinance and all other applicable laws and regulations.

B. Since federal laws are not affected by the Act or this Ordinance, nothing in this Ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution under federal law. The Act and this Ordinance do not protect users, primary caregivers, qualifying patients or the owners of properties on which medical use of marihuana is occurring from federal prosecution or from having their property seized by federal authorities under the Federal Controlled Substances Act, as amended.

ARTICLE 7. GENERAL REGULATIONS

A. No medical marihuana shall be grown, utilized, smoked, processed, distributed or handled within 1,000 feet of any half-way house, school, library, church, correctional facility, college, trade or vocational school, public park, halfway house, child daycare center, foster care center or similar use.

B. No medical marihuana shall be grown, utilized, smoked, distributed or handled within a dwelling or on a residential lot or parcel within 1,000 feet of the residence of another primary caregiver.

C. The smoking or consumption of marihuana shall not occur in any public place.

D. Every primary caregiver, qualifying patient and any other person shall comply at all times and all circumstances with the Act and the regulations of the Michigan Department of Community Health, as may amended from time to time.

E. It shall be unlawful to give, sell, dispense, or otherwise distribute medical marihuana (or any marihuana) to anyone other than a primary caregiver or qualifying patient.

F. No sign or other advertising materials identifying a particular dwelling or property as being associated with the use or cultivation of medical marihuana or marihuana in general shall be displayed, posted, or distributed.

G. Every primary caregiver shall maintain an accurate and complete written record of all medical marihuana purchased, sold, distributed, or dispensed by or through the primary caregiver which shall include, at a minimum, all of the following:

1. The identity of the primary caregiver and qualifying patient involved in each transaction.
2. The total quantity of, and amount paid for, the medical marihuana for each transaction.
3. The date, time and location of each transaction.

H. All transactions and the above-required information shall be recorded and kept in a numerical register in the order of which the transaction occurs. All such records must be kept in the English language in a legible manner and must be preserved and made available for inspection by the Township or law enforcement officers (to the extent that such inspections are allowed by law) and shall be kept for a period of at least 3 years after the date of the transaction.

I. It is unlawful to purchase or otherwise obtain medical marihuana (or any marihuana) from any source other than a primary caregiver who is authorized under the Act to sell or dispense medical marihuana to that particular person.

J. The Planning Commission by resolution shall require the issuance of a Township Special Use permit for each primary caregiver.

ARTICLE 8. RESPONSIBILITY FOR THE PREMISES

A primary caregiver shall be responsible (and shall be deemed to be in violation of this Ordinance) for any violation of this Ordinance or the Act which occurs in the residential dwelling or lot or parcel owned or leased by the primary caregiver.

ARTICLE 9. SEVERABILITY

If any provision, clause or portion of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or invalid, such invalidation shall not effect any other portion of this Ordinance and the balance of this Ordinance shall remain in full force and effect.

ARTICLE 10. PENALTIES

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

ARTICLE 11. PUBLIC NUISANCE AND NUISANCE *PER SE*

The violation of any provisions of this Ordinance or the Act shall be deemed to constitute a nuisance *per se* and shall be subject to abatement.

ARTICLE 12. EFFECTIVE DATE

This Ordinance shall become effective upon the expiration of thirty (30) days after this Ordinance or a notice of adoption of this Ordinance appears in the newspaper as provided by law.

The vote in favor of this Ordinance was as follows:

YEAS: Derks, Smalligan, Stocking, Stroven, Sullivan

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Sherman Township Board at the time, date, and place specified above pursuant to the required statutory procedures.

Dated: November 7th, 2011

Respectfully submitted by:

Murry D Stocking

Murry D Stocking
Sherman Township Clerk

SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(Ordinance No. 43)

At a regular meeting of the Township Board for Sherman Township, held at the Township Hall on May 7th, 2012, beginning at 7:00 p.m., the following ordinance was offered for adoption by Member Smalligan, second by Member Derks:

**REGARDING WIRELESS COMMUNICATION FACILITIES AND RELATED MATTERS
THE TOWNSHIP OF SHERMAN (the "Township") ORDAINS:**

Article 1

Wireless Communication Facility

Section 1 Definition:

Wireless Communication Facility (also called "wireless tower," "cell tower," or telecommunication tower") all structures and accessory facilities relating to the use of the radio frequency or telecommunication spectrum for the purpose of transmitting or receiving radio or similar signals. This may include, but shall not be limited to, radio towers, television or telecommunication towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment and buildings, and private and commercial mobile radio service facilities."

Section 2 Purpose:

It is the general purpose and intent of this Section to comply with the requirements of the Federal Telecommunications Act of 1996, as amended, and to exercise Sherman Township's zoning powers under state law, by authorizing towers and antennas needed to operate wireless communications systems, subject to certain conditions and requirements. It is the further purpose and intent of this Section to provide for such authorization in a manner which will retain the integrity of neighborhoods and rural areas and the character, property values, and overall quality of life of the Township.

Section 3 Applicability:

All new, expanded or altered wireless communication facilities in the Township shall be subject to this Section. There may be additional costs (which will be charged to the applicant or landowner) for professional review by the Township of the application and related matters, including by an independent consultant or consultants.

- a. **New Towers:** All new or expanded wireless towers and wireless communication facilities over 35 feet tall shall require Special Use approval in accordance with the requirements of Chapter 17 & 18 Special Uses, as well as this Section.
- b. **Collocation:** The Township encourages the collocation of antennas on existing towers, monopoles, utility poles located in a public right-of-way, water towers, and other existing similar structures. Collocation requests (on existing lawful towers) shall be expedited by the Township and approved or denied by the Township Zoning Administrator in accordance with this Section. The Township Zoning Administrator may also forward the request to the Planning Commission if it is determined that the request warrants additional review.
- c. **Amateur Radio:** All new amateur radio towers are exempt from this ordinance but shall meet all FCC applicable regulations.

Article 2
General Submittal Requirements

All applications to the Township for all wireless communication facility requests shall include the following:

Section 1 Application:

A fully completed, signed, and dated application, indicating the property owner, service provider, and the provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction, expansion, or modification.

Section 2 Site Plan:

A detailed site plan showing all of the following:

- a. The location, size, height, design and setbacks of the tower, and the number, size, mounting height, and design of antennas.
- b. The location, size, design and setbacks of any accessory structures, fences, and outdoor equipment.
- c. The location of all structures within two-hundred (200) feet of the parcel or lot on which the tower will be located.
- d. A landscape plan showing the location, number, and species of plants harmonious with the surrounding area.
- e. The location of any drives and/or access easements.
- f. The legal description of the parcel and/or the permanent parcel number.
- g. Other information required for site plans under Chapter 18.

Section 3 Fees:

All applicable fees including zoning, escrow and other fees etc.

Article 3
New Tower Submittal Requirements

Applications to the Township for new or expanded wireless towers shall also require all of the following additional information:

Section 1 Statement of Need:

A statement of what is proposed and demonstrating the need for the proposed facility based upon the presence of one or more of the following factors:

- a. Inability to find a suitable colocation site.
- b. Proximity to an interstate highway or major thoroughfare.
- c. Areas of population concentration.
- d. Concentration of commercial, industrial and/or other business centers.
- e. Areas where signal interference has occurred due to buildings, masses of trees or other obstructions or impediments.
- f. Topography of the proposed facility location in relation to other facilities within the area where the proposed facility is to operate.
- g. The need for additional coverage, capacity and/or quality.
- h. Other specifically identified reason(s) for creating the need for the facility.

Section 2 Facilities Map:

A map showing existing and known proposed wireless towers, and existing buildings and/or other structures of the same approximate height within a one (1) mile radius of the proposed site, including sites outside of the Township, which are relevant in terms of

potential colocation or in demonstrating the need for the proposed facility. This information will be used in determining the necessity of a new tower.

Section 3 Supplemental Information:

The following information shall also be submitted to the Township:

- a. **Technology:** The existing form of technology being used and any changes to that technology
- b. **ERP:** The proposed and existing service area of the tower and the attached wireless communication facility, and tower height and type, and signal power expressed in Effective Radiated Power (ERP) upon which the service area has been planned.
- c. **Fall Zone:** A certification by a state of Michigan licensed and registered professional engineer regarding the manner in which the proposed tower will fall. The certification will be utilized in determining appropriate setbacks to be required for the tower.
- d. **Other Agencies:** If required, evidence of applicable approvals and licenses from the Federal Aviation Administration, the Federal Communication Commission and the Michigan Aeronautics Commission (or successor agencies).
- e. **Maintenance:** A maintenance plan to ensure the long term continuance of maintenance of the facility, along with the name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information must be continuously updated and provided to the appropriate Township official during all times that the facility is on the premises.

Article 4

Requirements and Standard of Review

All new wireless communications facilities shall comply with all of the following requirements in addition to the standards and requirements as detailed in Chapter 17 – Special Uses:

Section 1 General:

The proposed tower or antennae shall not be injurious to the neighborhood or otherwise detrimental to the public safety and welfare. The proposed tower shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.

Section 2 Location:

New towers shall be permitted on a priority basis in descending priority upon the following sites, subject to application of all other standards contained within this Section and Chapter 17:

- a. C-Commercial District
- b. Municipal and Institutional sites
- c. Public parks and large permanent open spaces
- d. A site with an existing tower
- e. A, R-R, and S-R zoning districts
- f. L-R and U-R zoning districts
- g. Wilderness district
- h. Resort district

Section 3 Need:

A proposal for a new tower shall not be approved until and unless it can be demonstrated by the applicant that the communications equipment planned for the proposed tower cannot be feasibly collocated and accommodated on an existing or approved tower (or other existing structure) due to one or more of the following reasons as documented by a qualified and licensed professional engineer:

- a. The planned equipment would exceed the structural capacity of the existing tower, and could not be reinforced, modified or replaced to accommodate planned or equivalent equipment.
- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the existing tower or other existing structure and the interference cannot be prevented by any other means.
- c. Existing towers within a one (1) mile radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function.
- d. Refusal of the existing provider to permit a feasible collocation.
- e. Other unforeseen reasons that make it unfeasible to locate the planned communications equipment upon an existing tower or structure.

Section 4 Collocation:

Any proposed commercial tower shall be designed and built to accommodate at least 4 antennae platforms unless shown to be unreasonable given the tower height and type. Proposed towers must be designed and built to allow for future rearrangement of attached wireless communication facilities upon the tower and to accept attached wireless communication facilities mounted at varying heights.

Section 5 Height:

The height of all proposed towers and attached antennae shall be the minimum height necessary to serve its intended function. All proposed towers shall meet all current FAA/FCC lighting and marking regulations. The accessory structures (not on the tower) shall be limited to the maximum height for accessory structures within the respective zoning district.

Section 6 Setbacks:

Setbacks for wireless communications facilities shall conform to the following:

- a. **Monopole towers:** Monopole tower setbacks shall not be less than the required setbacks for principal buildings in the zoning district in which the tower is located, but in no event less than the height of the tower.
- b. **Other towers:** The setback of all non-monopole towers from any lot line shall be no less than the height of the tower.
- c. **Accessory structures (not on the tower):** Accessory structures setbacks shall conform to the minimum setbacks for accessory structures for that zoning district. For good cause shown, the Planning Commission may alter the required setbacks, based on tower height, tower fall zone, and the proximity of any structures or public rights-of-way.

Section 7 Access:

There shall be unobstructed access to the tower and accessory structures for maintenance, repair, inspection and emergency purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service

the wireless communication support structure and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbances to the natural landscape; and the type of equipment which will need to access the site.

Section 8 Use of Existing Building:

Where a wireless communication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that it conforms to all district requirements for accessory buildings.

Section 9 Visual Impact:

The Planning Commission shall, with respect to the color of the proposed tower and all accessory buildings, review and approve such items so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.

Section 10 Radio Frequency:

Wireless communication facilities shall comply with all applicable federal and state standards, including, without limitation, those standards relative to the environmental effects of radio frequency emissions.

Section 11 Landscaping:

Landscaping shall be provided which screens the tower base, accessory buildings and enclosures.

Section 12 Security Fencing:

All towers (and related equipment) shall be surrounded by security fencing that is at least six (6) feet tall. All gates shall be properly secured.

Section 13 Signage:

There shall be no advertising on any wireless communication facility. In addition, there shall be no signs or signage on a tower or wireless communication facility except for emergency contact information, warnings, government mandated signage, and identification signs.

Section 14 Additional Requirements:

The following additional regulations shall also apply:

- a. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- b. Antennae and metal towers shall be properly grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes.
- c. All towers shall be located so that they do not interfere with reception in nearby residential areas. In the event a communication tower causes interference, the communication company shall take all steps necessary to correct and eliminate such interference.
- d. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- e. The site of a tower shall not serve as a regular place of employment or office for any employees of the owner or lessee of the tower except for required maintenance.
- f. All parking areas shall be located on site and be hard surfaced unless an alternative surfacing material is approved by the Planning Commission.

Article 5

Collocation Refusal

If a party refuses to permit a feasible collocation on a tower owned or otherwise controlled by it, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to, the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

Section 1 Nonconforming:

If a party who owns, operates or otherwise controls an existing tower fails or refuses to accommodate a proposed and otherwise feasible collocation, such tower shall be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

Section 2 Penalty:

A party who fails or refuses to allow a feasible collocation shall be prohibited from receiving approval for a new tower within the Township for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek a variance from the Zoning Board of Appeals if and to the limited extent that the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

Article 6

Facilities Removal

Section 1 Unsafe and Unlawful Communication Towers:

When any tower is determined to be unsafe or is unlawfully erected or maintained and is found to be in violation of the provisions of this Ordinance, the use of the tower shall be discontinued until all violations are corrected or it shall be removed.

Section 2 Removal:

If, for any reason, a tower ceases operations or is abandoned, the Township may order its removal as well as the removal of any related structures. The owner of the tower and the property owner will have six (6) months to remove the tower upon receiving notification from the Township to do so. If the tower is not removed within the specified time period, and a time extension is not granted by the Township, the Township may cause the removal of the tower. After removal of the tower by the Township, a notice shall be mailed to the tower owner and the property owner stating the nature of the work done and demanding payment of the costs of removal as certified by the Building Inspector together with an additional twenty (20) percent for inspection and incidental costs. If the amount specified in the notice is not paid within ninety (90) days, it may become a lien against the property and may be certified as a special assessment against the property.

Article 7

Fees, Studies, and Escrow Amounts

In addition to regularly-established Township application fees for wireless communication facilities, the Township may at its discretion also require an applicant to submit to the Township,

at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs that may be incurred by the Township in reviewing and acting upon any such application or related matters. Such costs and expenses that may be charged or assessed to the applicant for reimbursement of the Township's reasonable costs and expenses may include, but are not limited to, Township Attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the application, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant that are not used or spent by the Township pursuant to such an escrow fee or fund shall be refunded to the applicant.

In addition, the Planning Commission shall have the authority to require that the applicant provide one or more expert or engineering surveys, reports, or studies regarding the proposed wireless communication facility or any aspect thereof.

Article 8

Violations and Penalties

A violation of this ordinance constitutes a municipal infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance and shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses in the discretion of the Court in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within (12) months of a previous violation of the same provision of this Ordinance or similar provisions of this Ordinance for which said person admitted responsibility or was or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offence.

Article 9

Severability

In the event that any one or more sections, provisions, phrases, or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases, or other words of this ordinance, which shall remain valid and in full force and effect.

Article 10

Effective Date

The provisions of this ordinance shall become effective July 1st, 2012.

The vote in favor of this ordinance was as follows:

YEAS: Derks, Smalligan, Stocking, Stroven, Sullivan

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

Signed: Murry D Stocking Clerk

Murry D Stocking

CERTIFICATION

I hereby certify that the above is a true copy of the ordinance adopted by the Township Board for Sherman Township at the time, date, and place specified above pursuant to the required statutory procedures.

Date: May 8th, 2012

Submitted by: Murry D Stocking

Murry D Stocking, Sherman Township Clerk

SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(ORDINANCE NO. 44)

**DANGEROUS AND DILAPIDATED BUILDINGS
AND RECREATIONAL VEHICLE ORDINANCE**

An ordinance to promote the health, safety and welfare of the people of Sherman Township ("Township"), Newaygo County, Michigan, by regulating the maintenance, condition, and safety of certain buildings, structures, and recreational vehicles; to define the types of buildings, structures, and recreational vehicles regulated by this Ordinance; to establish procedures for the maintenance or demolition of certain buildings and structures and for the removal of certain recreational vehicles; to establish remedies, provide for enforcement, and to fix penalties for the violation of this Ordinance.

THE TOWNSHIP OF SHERMAN ("Township") ORDAINS:

Title. This Ordinance shall be known and cited as the "Sherman Township Dangerous and Dilapidated Buildings and Recreational Vehicles Ordinance."

Section 1. Purpose. The purpose of this Ordinance is to regulate and prohibit the existence of dangerous and/or dilapidated buildings within Sherman Township, as well as unsafe, abandoned, or junk recreational vehicles. Furthermore, it is the intent and purpose of this Ordinance to promote the health, safety, and welfare of the people of Sherman Township by regulating the maintenance, condition, alteration, health, safety, and improvement of buildings, structures, and recreational vehicles and to establish remedies and provisions for the enforcement of this Ordinance.

Section 2. Definitions of Terms. As used in this Ordinance, including in this section, the following words and terms shall have the meanings stated herein:

(a) "Building Code" means the building code (or other applicable code) administered and enforced within the Township pursuant to the State Construction Code Commission Act, Act No. 230 of the Public Acts of 1972, as amended, being Section 125.1501 *et seq.* of the Michigan Compiled Laws, or adopted pursuant to any other state law.

(b) "Dangerous building" means any building or structure, residential, commercial or otherwise, that has one or more of the following defects or conditions or is in one or more of the following conditions:

(i) A door, aisle, passageway, stairway or other means of exit that originally conformed to the Township Fire Code, Township Building Code or other code enforced within the Township when built or installed, but which was later modified or deteriorated such that it does not currently conform to the Township Fire Code, Township Building Code or other code enforced within the Township.

(ii) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less

than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of the state of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 *et seq.* of the Michigan Compiled Laws, or the Building Code enforced within the Township (or any other code enforced within the Township) for a new building or structure, purpose or location.

(iii) A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.

(iv) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the Housing Law of the state of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 *et seq.* of the Michigan Compiled Laws, or the Building Code enforced within the Township (or any other code enforced within the Township).

(v) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, fire damage, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

(vi) The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is designed, used or intended to be used.

(vii) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.

(viii) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, which because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that a Township official or the health officer of the Township or Newaygo County determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.

(ix) A building or structure is vacant, dilapidated and open at the door, wall, roof, window, or other area, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(x) Any portion of a building or structure is open to the elements or vermin (or other animals), whether such opening occurs due to a broken, missing, deteriorated, or dilapidated door, wall, roof, or other structural or exterior component of the building.

(xi) The exterior paint, vinyl or aluminum siding, brick, wood, or other exterior component of a building or structure is in such disrepair, a dilapidated fashion, or such poor condition that the exterior building materials of the building or structure involved are directly exposed to the elements, insects, mold, or fungus.

(xii) A deck, porch, walkway, or similar structure or item attached to or serving a building or structure is slippery and is likely to cause a person to slip or fall due to moss, fungus, deterioration, slimy or slippery material, or similar slippery condition.

(c) "Enforcing agency" means Sherman Township, through the Township Building Official, Township Ordinance Enforcement Official, Zoning Administrator, and/or such other official(s) or agency as may be designated by the Township Board to enforce this Ordinance.

(d) "Owner" means any person, tenant, lessee, corporation, partnership, or entity which owns, co-owns, or has an ownership or possessory interest in the property at issue.

(e) "Recreational Vehicle" means any camping trailer, travel trailer, motor home, motor vehicle with sleeping and cooking facilities, pop-up trailer, or similar vehicle.

(f) "Township" means Sherman Township as well as its officials, officers, employees, agents and subdivisions.

Section 3. Prohibition of Dangerous Buildings. It shall be unlawful for any owner or agent thereof to keep, possess, own, or maintain any building or part thereof which is a dangerous building as defined in this Ordinance.

Section 4. Recreational Vehicles. No junk, abandoned, dilapidated, deteriorated, partially disassembled, or rundown recreational vehicle shall be kept, utilized, or stored outdoors. Such prohibition shall not apply to a lawful junkyard that fully complies with the Sherman Township Zoning Ordinance, as amended, and any and all other applicable Sherman Township ordinances.

Section 5. Penalties for Violation of this Ordinance. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of any of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

A violation of this Ordinance shall also be deemed a nuisance *per se*.

For purposes of being found responsible for a violation of this Ordinance (and for being subject to and bound by any penalties and court orders for violation of this Ordinance), the word "owner" shall include not only the person, partnership, corporation, or other entity shown as the owner as evidenced with the relevant real estate document recorded with the Newaygo County Register of Deeds records, but in addition, shall also include any owner or co-owner of the property (whether or not shown of record with the Newaygo County Register of Deeds records), and where a land contract is involved, shall apply to both the record owner of the property as well as the person or persons purchasing the property on land contract. This Ordinance shall also apply to any tenant or lessee of the property involved. Anyone who assists another in violating this Ordinance, or who aids and abets another in violation of this Ordinance, shall also be deemed to be in violation of this Ordinance.

In addition to the other remedies mentioned above, upon a finding of responsibility for a civil infraction involving a building or structure, the Court may also issue an order requiring that the property or building involved either be brought into full compliance with this Ordinance (as well as the Building Code and any other applicable ordinances or codes) or alternately, that the owner of the property completely demolish or remove the building or structure involved (and remove all debris, concrete, etc., from the site and lawfully dispose of the same and return the ground to its natural state) within a reasonable period of time. Such a court order may also provide that if securing of the building or demolition and/or removal of a building or structure is ordered (or some other action is required to be taken by the property owner) and the property owner does not fully comply with the order, the Township shall be authorized to enter the property involved and remove (and remove all debris, concrete, etc., from the site and lawfully dispose of the same and return the ground to its natural state), secure, or fully repair the dwelling or structure involved (or bring the property into full compliance with the court order) and that the Township shall be fully reimbursed for all of its costs and expenses, with the same being secured by a lien or one lot special assessment on the property.

In addition to the other remedies mentioned above, upon a finding of responsibility for a civil infraction involving a recreational vehicle, the Court may also issue an order requiring the recreational vehicle to be removed from the lot or parcel involved and be lawfully disposed of off site. Such a court order may also provide that if such removal and disposal of a recreational vehicle does not occur, the Township shall be authorized to enter the property involved and to remove and lawfully dispose of the recreational vehicle off site and that the Township shall be fully reimbursed for all of its costs and expenses thereof, with the same being secured by a lien or one lot special assessment on the property involved.

In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Ordinance in the Newaygo County Circuit Court (or equivalent court).

This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Ordinance Enforcement Officer, and such other Township official or agent as the Township Board may designate from time to time by resolution.

Section 6. Exemption for Bona Fide Farm Buildings. This Ordinance shall not apply to any non-dwelling building which is actively and regularly used or maintained in conjunction with a bona fide ongoing farming operation.

Section 7. Severability. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of this Ordinance which shall continue in full force and effect.

Section 8. Effective Date. This Ordinance shall take effect July 1st, 2013

The above Ordinance was offered for enactment by Township Board Member Ken Smalligan and was supported by Township Board Member Warren Stroven at a regular meeting of the Township Board of the Township of Sherman, held at the Sherman Township Hall, on the 6th day of May, 2013, at 7:00pm., the vote being as follows:

YEAS: Berens, K Smalligan, W Stroven, Sullivan

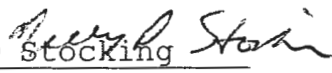
NAYS: Stocking

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Sherman at a regular meeting held on May 6th, 2013, pursuant to the procedures required by law.

Murry D. Stocking 
Murry D. Stocking
Sherman Township Clerk

VOID

**SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(ORDINANCE NO. 45)**

At a regular meeting of the Township Board for Sherman Township held at the Township offices October 7th, 2013, beginning at 7:00 p.m., the following Ordinance was offered for adoption by Township Board Member K Smalligan and was seconded by Township Board Member Berens:

**AN ORDINANCE TO IMPOSE A MORATORIUM ON THE
ESTABLISHMENT OR CREATION OF ANY LAKE ACCESS OR
USE EASEMENTS, KEYHOLE DEVELOPMENTS OR SIMILAR
MATTERS (AND ON THE ISSUANCE OF ANY TOWNSHIP
PERMITS, LICENCES OR APPROVALS FOR ANY SUCH
EASEMENTS OR DEVELOPMENTS) WITHIN THE TOWNSHIP
DURING THE TIME THAT THE MORATORIUM ORDINANCE IS
IN EFFECT**

THE TOWNSHIP OF SHERMAN (the "Township") ORDAINS:

Section 1. Findings. In accordance with Act No. 110 of the Public Acts of 2006, as amended, and MCL 41.181 *et seq.*, as amended, Sherman Township has determined that:

1. The provisions within the Sherman Township Zoning Ordinance (the "Zoning Ordinance") need to be updated regarding new or expanded lake access and usage easements, funnel developments and similar matters.
2. It is within the rights and authority of Sherman Township to establish reasonable regulations to protect the public health, safety and welfare, particularly with regard to the use of land and lakes (including lake activities) within the Township.
3. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow time for review of and potential amendments to the Zoning Ordinance.
4. During this moratorium period, the Township Board and Planning Commission will investigate potential modifications to the Zoning Ordinance that will establish reasonable regulations and controls regarding lake access and use easements, funnel developments and similar activities land uses.

Section 2. Administrative Action. A moratorium is hereby imposed upon the issuance of any Township permit, license, variance, or similar approval regarding the establishment or creation of any new or expanded lake access or use easement, funnel development, or similar activity or land use within Sherman Township so long as this Ordinance is in effect. During the moratorium term as specified in this Ordinance, no Township official, employee, body or agent shall issue any such permit, license, variance or other approval.

Section 3. Prohibition on Any New Lake Access or Usage Easement or Funnel Development. No lake access or use easement, funnel development, multifamily use or similar land use or activity shall commence, be created, be established or granted or be attempted with regard to any lake within the Township while the moratorium imposed by this Ordinance is in effect. This moratorium includes, but is not limited to, easements, activities and uses pursuant to Section 3.24 of the Zoning Ordinance.

Section 4. Term of This Ordinance. The moratorium imposed by this Ordinance shall remain in effect for six months following the effective date of this Ordinance or until amendments to the Zoning Ordinance are effective regarding lake access or use easements, funnel developments or similar activities or land uses. Prior to the expiration of the six-month moratorium, Sherman

Township may extend the moratorium for an additional six months to allow sufficient time to complete any such amendments to the Zoning Ordinance.

Section 5. Effective Date. This Ordinance is declared to be an emergency ordinance and shall become effective the day following its publication (or a summary hereof) in a newspaper of general circulation within the Township.

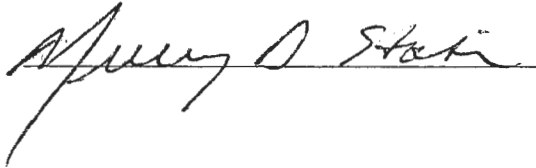
The vote in favor of this Ordinance was as follows:

YEAS: Berens, K Smalligan, Stocking, Sullivan

NAYS: None

ABSENT: Warren Stroven

Signed: Murry D Stocking, clerk

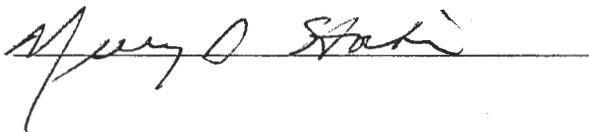
A handwritten signature in cursive script, reading "Murry D Stocking", written over a horizontal line.

CERTIFICATION

I hereby certify that the above is a true copy of an emergency Ordinance adopted by the Township Board for Sherman Township at the time, date, and place specified above pursuant to the required statutory procedures.

Murry D Stocking, Clerk

October 7th, 2013

A handwritten signature in cursive script, reading "Murry D Stocking", written over a horizontal line.

(July 15, 2019)

**SHERMAN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(Ordinance No. 47)**

At a monthly meeting of the Township Board for Sherman Township held at the Sherman Township Hall on September 3, 2019, at 7 p.m., Township Board Member Karen Berens made a motion to adopt this Ordinance, which was seconded by Township Board Member Doug Berens:

**AN ORDINANCE TO REGULATE AND PROHIBIT
CERTAIN MARIHUANA ESTABLISHMENTS AND
FACILITIES AND TO PRESCRIBE PENALTIES
FOR VIOLATION OF THIS ORDINANCE.**

SHERMAN TOWNSHIP (the "Township"), NEWAYGO COUNTY, MICHIGAN, ORDAINS:

Section 1 - TITLE

This Ordinance shall be known and may be cited as the "Sherman Township Marihuana Establishments and Facilities Ordinance."

Section 2 - DEFINITIONS

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

- A. *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
- B. *Marihuana establishment* means that term as defined in the MRTMA.
- C. *Marihuana facility* means that term as defined in the MMFLA.
- D. *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.
- E. *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.

- F. *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Section 3 - MARIHUANA ESTABLISHMENTS AND FACILITIES PROHIBITED

- A. Pursuant to Section 6 of the MRTMA, marihuana establishments are prohibited within the boundaries of Sherman Township.
- B. Marihuana facilities are also prohibited within the boundaries of Sherman Township.

Section 4 - RIGHTS UNAFFECTED BY THIS ORDINANCE

- A. This Ordinance shall not affect the rights or privileges of any individual or other person under Section 5 of the MRTMA.
- B. This Ordinance does not affect the rights or privileges of a marihuana facility outside of the Township to engage in activities within the Township that it is permitted to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.
- C. This Ordinance does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.
- D. This Ordinance does not affect the rights or privileges of any individual or other person under the IHRA.
- E. This Ordinance does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Section 5 - SEVERABILITY

If any sentence, section, paragraph or part of this Ordinance is determined to be unconstitutional or unenforceable by a court of competent jurisdiction, it shall be severed from the remainder of the Ordinance and such determination shall not affect the remainder of the Ordinance which shall remain valid and in effect.

Section 6 - PENALTIES

- A. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision

of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of any of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed to be a separate offense.

- B. Anyone who assists another in violating this Ordinance, or who aids and abets another in a violation of this Ordinance, shall also be deemed to be in violation of this Ordinance.
- C. In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Ordinance in the Newaygo County Circuit Court. The remedies hereunder shall be cumulative, and not exclusive or exclusionary.
- D. This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Zoning Enforcement Officer, a

Deputy Sheriff, and such other Township official or agent as the Township Board may designate from time to time by resolution.

- E. A violation of this Ordinance is also hereby declared to be a nuisance *per se* and is declared to be offensive to the public health, safety and welfare.

Section 7 - EFFECTIVE DATE

This Ordinance shall take effect upon the expiration of thirty (30) days after its publication (or a summary thereof) in the manner provided by law.

The vote to adopt this Ordinance was as follows:

YEAS: Doug Berens, Karen Berens, Ken Smalligan
and Jamie Kukal

NAYS: _____

ABSENT/ABSTAIN: Roman Miller

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify the above is a true copy of an Ordinance adopted by the Township Board for Sherman Township at the time, date and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By Jamie Lynn Kukal
Jamie Kukal
Sherman Township Clerk

SHERMAN TOWNSHIP
NEWAYGO COUNTY

(ORDINANCE NO. 49)

AN ORDINANCE TO REGULATE AND CONTROL SHORT TERM RENTALS ON PRIVATE PROPERTY AND TO PROVIDE FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

THE TOWNSHIP OF SHERMAN ("Township") ORDAINS:

Section 1: Purpose

The Sherman Township Board finds and declares as follows:

- A. That Sherman Township wishes to preserve and retain the agricultural and residential character of this community.
- B. That the Short Term Rental Ordinance is intended to make the Short Term Rental activity as permitted by this Ordinance consistent with existing and traditional residential uses and neighborhoods
- C. That the Short Term Rental Ordinance is intended to protect and promote the health, safety and welfare of all citizens of Sherman Township as well as those visiting the area by establishing standards for short-term rentals within the Township.
- D. That short-term rentals provide a community benefit by expanding available lodging facilities and assisting property owners via the revenue attained, which may be used for maintenance, upgrades, or deferred costs.
- E. That allowing the rental of a dwelling unit for short periods of time will encourage owners to retain the property for their future use and enjoyment, while protecting the integrity of those residential neighborhoods which were intended for single-family occupancy.

Section 2: Applicability

No person shall rent or cause to be rented a dwelling unit or a portion thereof, within Sherman Township, for a period of less than thirty (30) days without first obtaining a Short-Term Rental Permit for that dwelling unit in accordance with the requirements of this Ordinance.

Section 3: Definitions

Dwelling Unit: A building or portion of a building providing complete independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation and separate bedrooms for sleeping.

Local Contact Person or Caretaker: A local property manager, owner, or agent of the owner who is available to respond to renter and neighborhood questions or concerns; or any agent of the owner authorized by the owner to take remedial action and respond to any violation of this Ordinance.

Renter: As used in this Ordinance, a renter is an occupant, or the renter of a Short Term Rental pursuant to a rental agreement. This term does not include guests of the occupant or renter who are visiting between the hours of 7:00 a.m. and 10:00 p.m.

Short Term Rental: A dwelling unit or a portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than thirty (30) days at a time.

Section 4: Short Term Rental Standards

The Sherman Township Zoning Administrator shall issue a Short Term Rental Permit when the applicant demonstrates that policies and procedures applicable to the rental are in place for compliance with the following standards and requirements:

- A. Only one (1) dwelling unit per parcel shall be leased or rented at any given time. All lodging is to be exclusively within the dwelling unit and not in a recreational vehicle, camper or tent.
- B. Maximum occupancy will be based on two (2) adults (age 18 or over) per bedroom.
- C. Local Contact Person or Caretaker:
 - 1) Each owner of a Short Term Rental must designate a local contact person/caretaker who has access and authority to assume management of the unit and take remedial action as needed.
 - 2) The local contact person/caretaker must be available twenty-four (24) hours a day during the rental period and be within sixty (60) minutes travel time of the property.
 - 3) The Township will provide the phone number of the local contact to all neighbors within three hundred (300) feet of the subject property.

- D. Special events, outdoor events, lawn parties, weddings, bachelor/bachelorette parties, or other similar activities are not allowed on the site for more than the number of permitted renters or occupants.
- E. Pets must be secured or on a leash at all times.
- F. All refuse and recyclables shall be stored in appropriate containers with tight-fitting lids and shall be regularly picked-up by a waste hauler.
- G. All parking associated with a Short-Term Rental, including any motor vehicle or any trailered item (boat, jet-ski, snowmobile, etc.) shall be out of the roadway and entirely on-site, in the garage or driveway.
- H. Campfires:
 - 1) All campfires shall be contained in a fire ring or comparable container and under the direct supervision of an adult at all times.
 - 2) All campfires shall be properly extinguished after use.
 - 3) Only clean, dry wood shall be burned.
- I. All Short Term Rentals shall observe quiet hours between 10:00 p.m. and 7:00 a.m.
- J. The owner shall maintain a well and septic system or sewer connection that complies with District Health Department Standards.
- K. The dwelling unit must be in compliance with safety requirements of current building officials and code authority (BOCA) codes. (Examples: living area, egress windows, mechanical systems, fire prevention, etc.)
- L. The Owner shall require these standards be met by renters as part of all rental agreements.

Section 5: Short Term Rental Application and Permit

- A. Application: The application form for a Short Term Rental shall include the following:
 - 1) Address of the rental property
 - 2) Name, address and signature of the property owner(s).
 - 3) Number of bedrooms in the dwelling. If the Short Term Rental does not include the whole house, then specify the total number of bedrooms that are part of the rental.
 - 4) Contact information, including the name, address and 24-hour contact phone number of the local contact person/caretaker.
 - 5) An insurance certificate specific to the property or other confirmation of insurance.
 - 6) A Septic System Inspection Report or other confirmation of septic status (if not connected to a sewer system) and a well status as issued by the District Health Department. (Example: Pump Card)

B. Permit:

- 1) A separate annual permit is required for each Short Term Rental Property.
- 2) All Short-Term Rental Permits shall be issued by calendar year and will expire on December 31 of each calendar year.
- 3) The Zoning Administrator shall issue all Short Term Rental Permits.

Section 6: Fees

The property owner of a Short Term Rental shall pay an annual fee as determined by the Sherman Township Board and as stated in a Fee Resolution of current adoption.

Section 7: Violation of Permit, Suspension or Revocation

- A. Violation: If the Sherman Township Zoning Administrator has reason to believe the application or attachments as submitted contained false, incorrect or misleading information or that the Short Term Rental no longer complies with the standards as contained in this Ordinance, the Zoning Administrator will prepare a written notice specifying the false, incorrect or misleading information in the application material or specifying the Violations of Section 4 that are being alleged, including the factual basis for these findings.
- B. Notice: A written notice, stating the time, date and place of a hearing before the Sherman Township Board on the above-described violation, shall be served on the permit holder either personally or by mail, return receipt requested, no less than twenty-one (21) days before the hearing.
- C. Hearing: The Sherman Township Board shall hold a hearing at which time the permit holder shall be given an opportunity to present evidence or provide supporting documentation as to why the Short-Term Rental Permit issued under this Ordinance should not be suspended or revoked. Length and timing of any suspension or revocation of the permit shall be determined by the Sherman Township Board. The Sherman Township Board's decision shall be stated in the meeting minutes and include the evidence upon which it is based. A copy of the meeting minutes shall be provided to the permit holder.

Section 8: Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Sherman Township Board may initiate proceeding in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 9: Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect remainder of the Ordinance.

Section 10: Effective Date

This Ordinance shall become effective January 1, 2023 after its publication in a newspaper of general circulation in Sherman Township.

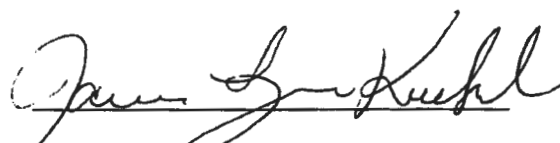
The forgoing ordinance was offered by Sherman Township Board Member Berens, and was supported by Sherman Township Board Member Kukal, the vote being as follows:

YEAS: Berens, Berens, Kukal and Smalligan

NAYS: Stroven

ABSENT: None


ORDINANCE DECLARED ADOPTED.


Jamie Kukal, Sherman Township Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Sherman Township Board at a regular meeting held on August 1, 2022, at the Sherman Township Hall pursuant to the required statutory procedures.

Respectfully submitted by:


Jamie Kukal, Sherman Township Clerk