



Ottawa County
Where You Belong[®]

Code of Ottawa County, Michigan

Section 1. Code of Ottawa County

The Ottawa County Board of Commissioners hereby adopts a Municipal Code for the County of Ottawa pursuant to authority granted by MCL 46.11(j). This Code contains ordinances of a general and permanent nature as adopted and now compiled, consolidated, amended, revised, rearranged, codified and indexed in Articles 1 through 4. Up-to-date and complete copies of the Code shall be maintained in the office of Corporation Counsel and the office of the County Clerk, where it shall remain for public use and inspection.

Section 2. Numbering System

The numbering system used in this Code is the same system used in many state and municipal codes. This Code is arranged according to public health, environmental, public safety and county operational Articles. Each Code provision shall consist of at least two component parts separated by periods, the first numbers representing the Article, the second figure representing the Chapter number, identifying a particular ordinance under that subject heading and then succeeding numbers, if any, referring to parts and subparts within that ordinance. Under this system, each section is identified with its article and chapter and, at the same time, new sections or even whole articles and chapters can be inserted in their proper places, simply by using the decimal system for amendments.

Section 3. Effect

The provisions of the Code shall be in immediate force and effect upon the original adoption of this ordinance by the Ottawa County Board of Commissioners. Corporation Counsel shall codify all ordinances adopted after the original passage of the Codification Ordinance and shall modify the Code kept by the Ottawa County Clerk depending upon new ordinances adopted or existing ordinances repealed. Corporation Counsel shall exercise his or her discretion to apply the Numbering System to new ordinances. Any ordinances not contained in this Code are hereby repealed upon the adoption of this ordinance except as herein provided. Notwithstanding the foregoing, nothing herein shall repeal, modify or otherwise affect the Environmental Health Regulations separately adopted under the Public Health Code.

Section 4. Repeal

The repeal provided for in the preceding section of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the adoption of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to said adoption; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the

County or authorizing the issue of any bonds of the County or any evidence of the County's indebtedness or any contract or obligation assumed by the County; nor shall it affect the annual tax levy; nor shall it affect any ordinance waiving penalties for nonpayment of taxes; nor shall it affect any license, permit, right or franchise conferred by ordinance or resolution of the County on any person, association or corporation; nor shall it affect any ordinance adopted for purposes which have been consummated; nor shall it affect any ordinance which is temporary, although general in effect, or special, although permanent in effect; nor shall it affect any ordinance relating to the salaries of the County officers or employees; nor shall it affect any ordinance naming, renaming, accepting or dedicating any parks, playgrounds, halls or other public buildings or grounds in the County.

Section 5. Catchall Sanctions

Whenever any act is prohibited or is made or declared to be unlawful or an act is required that is not performed in any ordinance in this and no specific penalty is provided therefore, the violation of any such provision of such Code or any other ordinance of the County or such rule, regulation or order shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding ninety (90) days, or both such fine and imprisonment. Except where otherwise provided, every day that a violation of the Code hereby adopted or any other ordinance of the County or such rule, regulation or order, continues shall constitute a separate offense. Nothing herein shall prevent the County from seeking an injunction to prohibit further violations of the Code or to seek mandatory compliance herewith and such injunctive relief is authorized if deemed warranted and directed by the Court.

Section 6. Severability

It is hereby declared to be the intention of the Board of Commissioners that the articles, chapters, divisions and subdivisions of the Code hereby adopted are severable, and if any article, chapter, division or subdivision, phrase, clause, sentence, paragraph or section of the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Code hereby adopted.

Section 7. Purpose and Effect

The Ordinance is hereby declared necessary for the preservation of the peace, health, safety, and welfare of the people of the County of Ottawa. This Ordinance shall become effective April 9, 2019, unless the Board of Commissioners amends this ordinance to establish an earlier or later effective date.

INDEX

ARTICLE I—PUBLIC HEALTH ORDINANCES

100.1 Licensing of permanent and temporary restaurants - This Ordinance, enacted under the Public Health Code, regulates food services establishments.

ARTICLE 2—ENVIRONMENTAL ORDINANCES

200.1 Landfill Operational Standards - This Ordinance establishes operational standards for solid waste facilities

200.2 Soil Erosion Control - This Ordinance is designed to minimize soil erosion and establish a permit for projects affecting erosion.

200.3 Phosphorous Use Regulation - This Ordinance regulates the use of fertilizers that could load phosphorous into area lakes and rivers.

200.4 Pollution Control

200.4.1 Groundwater Use Ordinance (SW Landfill Vicinity) - This Ordinance is designed to prevent the use and spread of contamination groundwater in the vicinity of the SW Landfill facility in Park Township.

200.4.2 Ground Use Ordinance (SW Landfill) - This ordinance is designed to regulate the use of contaminated ground in the vicinity of the SW Landfill facility in Park Township.

200.5 Farmland Preservation - This Ordinance promotes the preservation of farmland in Ottawa County.

ARTICLE 3—PUBLIC SAFETY ORDINANCES

300.1 Animal Control This omnibus Ordinance is designed to promote public safety related to animals within Ottawa County and to encourage the collection of fees and costs associated with animal control in the community.

ARTICLE 4—COUNTY OPERATIONS ORDINANCES

400.1 County Property

400.1.1 Smoking Regulations on or within County Property - This Ordinance augments state law in protecting the health of county employees and the value of county property.

400.1.2 County Parking Lot Ordinance - This Ordinance establishes rules and regulations designed to promote the proper and effective use of parking lots owned by the County of Ottawa.

400.2 Cost Recovery

400.2.1 Municipal Infractions Bureau - This Ordinance creates a bureau that promotes the efficient collection of municipal fees.

400.2.2 Investigating alcohol and substance abuse vehicle operation - This Ordinance authorizes the efficient collection of municipal fees that are imposed on county operations by having to deal with impaired driving.

400.2.3 Prosecution Costs - This Ordinance authorizes the efficient collection of municipal fees that are imposed on county operations by having to deal with a variety of types of prosecution.

400.3 Parks

400.3.1 Rules and Regulations in Parks - This Ordinance prescribes certain behavior in county parks to enhance public enjoyment and the protection of park property.

400.3.2 Open Space Regulation - This Ordinance proscribes certain behavior in county open spaces managed by the parks department to enhance public enjoyment and the protection of park property.

400.4 County Committees and Commissions

400.4.1 Planning Commission - This Ordinance establishes a county planning commission.

400.4.2 Housing Commission - This Ordinance establishes a county housing commission.

History

Enacted: April 9, 2019

Original Ordinance Number: 19-1

Codified: April 9, 2019

Amended: June 25, 2019

Effective: April 9, 2019

Article I - Public Health Ordinances

100.I - Licensing of Permanent and Temporary Restaurants

Licensing of Permanent and Temporary Restaurants

An ordinance concerning the licensing of food service establishments, temporary food service establishments, special transitory food units, mobile food service establishments, mobile food service establishment commissaries, and vending machine locations, and requiring that persons seeking such licensure obtain certain training in proper food handling procedures.

100.I.1 Purpose: The Board of Commissioners of the County of Ottawa (“the Board of Commissioners”) has determined that it is in the best interests of the health and welfare of the residents of Ottawa County to require that persons seeking licensure for food service establishments, temporary food service establishments, special transitory food units, mobile food service establishments, mobile food service establishment commissaries, or vending machine locations, successfully complete certain training in proper food handling procedures as a precondition for obtaining such licensure.

100.I.1 Training Requirements: A person shall not be issued a license from the Ottawa County Department of Public Health as authored by Section 4101 of the Food Law of 2000, MCL 289.4101, to operate a food service establishment, a temporary food service establishment, a transitory food unit, a mobile food service establishment, a mobile food service establishment commissary, or a vending machine location within Ottawa County, unless that person shall successfully complete an examination in safe food handling procedures. The director of the Ottawa County Department of Public Health shall designate the course and examination to be utilized by the Department to meet those requirements. A person seeking any such license shall have a maximum of two (2) opportunities to successfully complete the exam. If unsuccessful after two (2) attempts, the applicator shall be required to (i) take and successfully complete a designated food safety training course sponsored or authorized by the Ottawa County Department of Public Health before being permitted to take the examination again or (ii) demonstrated successful completion of any program approved by the Michigan Department of Agriculture under Section 2129 of the Michigan Food Law of 2000, MCL 289.2129. The requirements of this section do not apply to any applicant who at the time the license application is made provides documentation to demonstrate successful completion of a food safety program approved by the Michigan Department of Agriculture under Section 2129 of the Michigan Food Law of 2000, MCL 289.2129.

Article I - Public Health Ordinances

100.1 - Licensing of Permanent and Temporary Restaurants

100.1.2 Fee for Course and Examination: The Ottawa County Board of Commissioners may, by resolution, establish a fee to cover the cost of providing and administering the food safety training course and examination, and may, by resolution, adjust that fee to reflect changes in the cost of providing this program.

100.1.3 Exemption for Existing Licenses: A person who, as of the effective date of this Ordinance, holds a valid license in good standing to operate a food service establishment, a temporary food service establishment, a special transitory food unit, a mobile food service establishment, a mobile food service establishment commissary, or a vending machine location, shall not be required to comply with this Ordinance as a precondition for keeping or renewing that license. This section shall not be construed as prohibiting the Ottawa County Department of Public Health from ordering that a license holder successfully complete a food safety training course provide or authorized by the Ottawa County Department of Public Health, and successfully complete an accompanying examination, in any instance where the performance of the license holder, or the retention or renewal of a license, is under review due to allegations of substandard food handling procedures.

100.1.4 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: April 24, 2001

Original Ordinance Number: 00-1

Codified: April 9, 2019

Amended:

Article 2 - Environmental Ordinances
200.1 - Landfill Operational Standards

Landfill Operational Standards

An ordinance to adopt “Facility Operating Standards” for licensed landfills, to provide a method of semi-annual reporting by landfill operators and to provide for the enforcement of this Ordinance through criminal and civil prosecutions.

200.1.1 Purpose: The Ottawa County Solid Waste Management Plan Update, dated April 1991, provides and requires that Ottawa County will adopt an ordinance incorporating the “Ottawa County Facility Operating Standards” as the operating standards for licensed landfills within the County. The Board of Commissioners of the County of Ottawa (“the Board of Commissioners”) upon the advice of their Act 641 committee, has determined that the “Ottawa County Facility Operating Standards” should be adopted as the standards for the operation of licensed landfills within the County, and has further determined that landfill operators should provide semi-annual reports of the quantities, types, and county of origin of solid waste delivered to licensed landfills within the County of Ottawa.

200.1.2 Facility Operating Standards: The Ottawa County “Facility Operating Standards” set forth in the “Ottawa County Solid Waste Management Plan Update, April 1991,” and any amendments or updates thereto, shall be the facility operating standards for licensed landfills within Ottawa County. The Ottawa County “Facility Operating Standards,” as set forth therein, and any amendments thereto, are hereby incorporated by reference into this Ordinance as if fully set forth herein. A copy of the Facility Operating Standards in effect at the date of adoption of the Ordinance is attached hereto as Exhibit “A.”

200.1.3 Compliance with Facility Operating Standards: All licensed landfills within Ottawa County shall be operated, at all times, in compliance with the Ottawa County Facility Operating Standards. The failure to comply with the Ottawa County Facility Operating Standards may result in the imposition of criminal penalties for violation thereof, and/or in injunctive action being initiated by Ottawa County to compel compliance therewith and/or to compel closure of the landfill. As set forth in the plan, exemptions and variances from these operating standards may be granted where it can be demonstrated that circumstances warrant such exemptions and that alternatives will adequately protect the public health, welfare and environment.

Article 2 - Environmental Ordinances
200.1 - Landfill Operational Standards

200.1.4 Landfill Operators Reporting Requirements: The operators of licensed landfills shall file a semi-annual report in accordance with the criteria set forth in the “Facility Operating Standards” of the Ottawa County Solid Waste Management Plan.

200.1.5 Criminal Penalties, Civil Injunctive Relief: Any person or business entity violating the terms of this Ordinance, including the Operating Standards, and any person or business entity knowingly making false or inaccurate reports under the terms of this Ordinance, and any person or business entity failing to fully remit the fees collected under this Ordinance, shall be guilty of a misdemeanor, and shall be punished by fines not to exceed \$100.00, plus court costs, and/or a term of imprisonment not to exceed 90 days in the county jail. Civil injunctive remedies may also be sought by the County to enforce and assure compliance with the terms of this Ordinance.

200.1.6 Conflict with Criminal Laws: Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

200.1.7 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: May 25, 1993
Original Ordinance Number: 93-1
Codified: April 9, 2019
Amended: August 11, 1998
Effective: January 1, 1999

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

Soil Erosion Control

An ordinance to establish rules and regulations to control soil erosion and sedimentation, to establish a system of permits for the regulation of earth changes, to establish the Ottawa County Drain Commissioner as the officer responsible for implementation and enforcement, and to establish a system of fees, penalties, and civil infraction penalties for the violation of the ordinance, all as authorized by the Part 91 Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended. The Administrative Rules promulgated under the authority of Part 91 are hereby incorporated by reference.

200.2.1 Introduction: Soil erosion can be classified as either natural or accelerated. Natural erosion is a geological process over which man has little or no control and may be very slow or rapid depending on various factors. Accelerated erosion is caused when development and urbanization of our environment occurs creating erosion and sedimentation through the alteration of drainage patterns, exposed soils, removal of organic matter and increased amounts of impervious surfaces through paving and compacting of soil, increasing the amount of storm water runoff.

Storm water runoff increases channel flow and erodes stream or river channels, which adds to the sediment load. Eventually, eroded soil is deposited in lakes, rivers, streams and wetlands in the form of sediment. Sediment damages the ability of the waterway to serve its natural functions.

Adverse effects of sedimentation include:

- a) Smothering aquatic life by clogging gills of fish, covering critical insect habitat and fish reproduction areas.
- b) Decreasing the watershed's ability to carry and retain storm water, clogging drainage systems and increasing chances of flooding.
- c) Affecting navigability of watercourses.
- d) Reducing the attractiveness of streams, rivers and lakes both recreationally and aesthetically.
- e) Carrying pollutants such as toxins and excess nutrients into waterways.
- f) Increasing water temperatures through heavy turbidity.

The consequences of uncontrolled erosion and off-site sedimentation can be significant and every reasonable effort must be made to provide effective erosion prevention and sediment control. Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended was enacted to address these problems. Part 91 has become the primary tool for combating uncontrolled erosion and sedimentation from earth change activities. This state law provides

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

counties the authority to adopt ordinances to administrate and enforce Part 91. An ordinance to control soil erosion and sedimentation may be more restrictive, but not less restrictive than state law, in accordance with MCL Section 324.9105 (3).

200.2.2 Authority: By virtue of the powers vested in the Ottawa County Board of Commissioners under existing statutes and pursuant to Part 91, Soil Erosion and Sedimentation Control Act 451 of the Public Acts of 1994 as amended, being sections 324.9101 to 324.9123 (a) of the Michigan Compiled Laws (and the Administrative Rules promulgated by the State of Michigan under the authority of Part 91) there is hereby adopted an ordinance to provide standards to control, regulate, enforce and maintain proper soil erosion and sedimentation control practices, for administrative procedures, and enforcement powers within the County of Ottawa.

200.2.3 Designation as County Enforcing Agency (CEA)

- a) The Soil Erosion and Sedimentation Control Enforcing Agency for earth changes proposed within the boundaries of Ottawa County shall be the Ottawa County Drain Commissioner.
- b) Earth changes permitted by Municipal Enforcing Agencies (MEA) or undertaken by Authorized Public Agencies (APA) shall be exempt from this ordinance. APA's include, but are not limited to the following:
 - i. Ottawa County Road Commission
 - ii. Ottawa County Drain Commission
 - iii. State agencies including but are not limited to the Michigan Department of Transportation, the Michigan Department of Agriculture, the Michigan Department of Natural Resources, and the Michigan Department of Management and Budget.
 - iv. Municipal enforcing agencies may include cities, villages and townships. As of the date of the adoption of this ordinance, the City of Holland is a municipal enforcing agency.
- c) An APA is exempt from obtaining a permit but shall notify the County Enforcing Agency of any proposed earth change which is within the boundaries of Ottawa County.
- d) APA's are not exempt from Part 91 and the rules issued there under and are to ensure that no off-site sedimentation occurs as a result of their projects.
- e) When an earth change is under the jurisdiction of two or more municipal or county enforcing agencies the Michigan Department of Environmental Quality shall act as the enforcing agency.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- f) A person engaged in agricultural practices may enter into an Agricultural Agreement with the Ottawa County Conservation District to pursue such agricultural practices in accordance with the standards and requirements of Part 91 including the development of a project specific soil erosion and sedimentation control plan.

200.2.4 Objectives of this Ordinance are:

- a) To prevent accelerated soil erosion and off-site sedimentation resulting from earth changes proposed within Ottawa County.
- b) To ensure that all earth changes are permanently stabilized in a timely manner.
- c) To prevent unnecessary stripping of vegetation and loss of soils, especially adjacent to lakes, streams, and wetlands.
- d) To ensure that soil erosion and sediment control measures are incorporated into site development at an early stage in the planning, design and construction processes.
- e) To ensure that all drainage, soil erosion and sedimentation control measures are properly designed, constructed and maintained. To encourage the design and construction of soil erosion and sedimentation control measures that serve multiple purposes including but not limited to water quality protection, storm water management, wildlife habitat preservation and wetland protection.
- f) To eliminate the need for costly remedial projects, maintenance and repairs to lakes, streams and drainage systems as a result of accelerated soil erosion and sedimentation.
- g) To provide for enforcement of Part 91, the administrative rules, this Ordinance, and to establish penalties for violations.

200.2.5 Permit Applicability

- a) A Soil Erosion and Sedimentation Control Permit shall be required for all earth changes within Ottawa County that disturb one or more acres of land or that are within 500 feet of the water's edge of any lake or stream.
- b) An earth change activity that does not require a permit under Part 91 or this ordinance is not exempt from enforcement procedures under this ordinance if the activity causes or results in a violation of Part 91 or this ordinance.
- c) Permit Exemptions

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- i. A permit is not required for any of the following:
 - 1) Land on which a person, partnership or corporation is engaged in the industry generally referred to as logging, mining, plowing or tilling of land for the purpose of crop production or the harvesting of crops. The exemption for logging and mining does not include access roads to and from the site where active mining or logging is taking place or ancillary activities associated with logging and mining. Mining does not include the removal of clay, gravel, sand, peat, or topsoil.
 - 2) A beach nourishment project permitted under Part 325 of Act 451 of the Public Acts of 1994 as amended.
 - 3) Normal road and driveway maintenance, such as grading or leveling that does not increase the width or length of the road or driveway and that will not contribute sediment to lakes or streams.
 - 4) Earth changes associated with well locations, surface facilities, flowlines, or access roads relating to oil or gas exploration and development activities regulated under Part 615 of Act 451 of Public Acts of 1994, as amended, if the application for a permit to drill and operate under Part 615 contains a soil erosion and sedimentation control plan that is approved by the department under Part 615. However, those earth changes shall conform to the same standards as required for a permit under Part 91. This subsection does not apply to a multisource commercial hazardous waste disposal well.
 - 5) A minor earth change that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams (or as defined herein).
- ii. The Ottawa County Enforcing Agency may grant a permit waiver for an earth change after receiving a signed affidavit from the landowner stating that the earth change will disturb less than 225 square feet and that the earth change will not contribute sediment to lakes or streams.

200.2.6 Permit Application Submittal: An application for permit shall be submitted to the Ottawa County Enforcing Agency by the landowner or designated agent. Application for a permit shall be made prior to the start of any earth change requiring a permit and work shall not be initiated until a permit has been issued. Any unauthorized work shall be considered a violation of this ordinance and can include a monetary penalty and a cease-and-desist order. Soil test borings, vegetative cutting for land surveys, percolation tests, or cutting of trees without removal of stumps shall not be considered a “start of work” under this ordinance.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- a) Content of Permit Application: A Soil Erosion & Sedimentation Control permit application shall be obtained from the Ottawa County Drain Commissioner's Office and shall include, but not be limited to the following information:
 - b) Existing site map: A map of existing site conditions on a minimum scale of the following: If the earth change is less than 2 acres the scale shall be no more than 1" = 25'. If earth change is 2 to 5 acres, it shall be no more than 1" = 50'. If the subject property is greater than 5 acres, it shall be no more than 1" = 100'.
 - i. Site boundaries and adjacent lands which accurately identify the site locations.
 - ii. Lakes, streams, wetlands, channels, ditches and other watercourses on and adjacent to the site.
 - iii. One hundred-year floodplains, floodway fringes and floodways.
 - iv. Location of the predominate soil types as identified by the soil survey or on-site soil borings.
 - v. Vegetative cover such as grasses, shrubs and trees.
 - vi. Location and dimensions of storm drainage systems and natural drainage patterns on and immediately adjacent to the sites.
 - vii. Locations and dimensions of structures, roads, highways, utilities and paving.
 - viii. Site topography at a contour interval not to exceed 5 feet.
 - c) Plan of proposed site conditions
 - i. A plan of expected final site conditions on the same scale as the existing site map showing the site changes, using the criteria listed for the existing site map. These can be incorporated into one plan using dark and light contour lines showing the grade changes.
 - d) Soil erosion and sedimentation control plan
 - i. A description and the location of the physical limits of each proposed earth change.
 - ii. Timing and sequence of each proposed earth change.
 - iii. Locations and dimensions of all soil stockpiles.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- iv. The location and description for installing and removing all proposed temporary soil erosion and sediment control measures, including but not limited to the following: silt fence, temporary seeding, catch basin protection, check dams, diversion ditches, sediment basins, erosion control blankets, dewatering outlet locations and protection. Include permanent measures such as vegetation, rock riprap, retaining walls and permanent swales.
 - v. A description and location of all proposed permanent soil erosion and sedimentation control measures.
 - vi. Provisions for maintenance of the erosion and sediment control measures during and after construction activities.
- e) Fee Schedule: At the time of application, payment of the total estimated fee will be required before the actual plan review will commence. Should the project be canceled within 30 days of application and a permit has not been issued, the fee will be refunded upon written request to the Soil Erosion and Sedimentation Control Agency, if a site inspection has not taken place. Fees are based on acreage disturbed and the acreage shall be rounded up to the nearest acre. Fees will be set forth in Exhibit "A" to this ordinance and may be changed from time to time by resolution of the Ottawa County Board of Commissioners.
- f) The enforcing agent shall, within 30 calendar days of receipt of the completed application, review the application and erosion and sedimentation control plan to determine whether the requirements of this ordinance have been met. A meeting may take place between developer, engineer, contractor and enforcing agent if necessary.
- g) Following an inspection of the subject property, the enforcing agent shall determine whether the requirements are met by the erosion and sedimentation control plan. If complete, the enforcing agent shall approve the plan, write-up permit conditions, inform the applicant and issue a Soil Erosion and Sedimentation Control Permit.
- h) If requirements are not met the enforcing agent shall inform the applicant in writing and either require additional information or disapprove the plan by certified mail.
- i) A local agency which issues building permits shall not issue a building permit for an earth change within 500 feet of a lake or stream or disturbing one or more acres of land until a soil erosion and sedimentation control permit has been issued by the enforcing agent. The enforcing agent shall notify the local

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

agency issuing building permits after a Soil Erosion and Sedimentation Control permit has been issued.

- j) Soil Erosion and Sedimentation Control permits and waivers issued in accordance with this ordinance do not relieve the owner of responsibility for obtaining all other necessary permits or approvals from federal, state and/or county agencies. If requirements vary, the most stringent requirements shall be followed.
- k) If the services of an engineer are necessary during plan review, project construction or project completion, the permittee shall be responsible for any associated costs incurred by the engineer.

200.2.7 Permits

- a) Work to be done under authority of a Soil Erosion and Sedimentation Control Permit shall be completed in accordance with the plans and specifications submitted and approved and is subject to special conditions, limitations and instructions.
- b) The Soil Erosion and Sedimentation Control Permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other applicable state statutes.
- c) The Soil Erosion and Sedimentation Control Plan and Permit shall be kept at the site of the earth change and available for inspections at all times during the duration of the project or until its date of expiration.
- d) The Soil Erosion and Sedimentation Control Permit does not prejudice or limit the right of a land owner to institute legal proceedings when necessary to protect his rights.
- e) Permit Conditions - All soil erosion and sedimentation control permits shall require the permittee to:
 - i. Install all erosion and sedimentation control measures as identified in the approved erosion and sedimentation control plan and any additional permit conditions.
 - ii. Maintain all storm water drainage systems, erosion and sedimentation control measures and other facilities identified in the erosion and sedimentation control plan until the project has been completed and stabilized.

Article 2 - Environmental Ordinances
200.2 - Soil Erosion Control

- iii. Assume responsibility for the prompt removal of any soil, debris or other materials washed, spilled, tracked, dumped or otherwise deposited onto public streets or other public thoroughfares as an incident to the land disturbing activity or during transit to and from the project site where in the opinion of the enforcing agent, such deposition constitutes a public nuisance or hazard.
- iv. Assume responsibility in working with the enforcing agent through on-site meetings when necessary to keep the project site in compliance with Part 91 and this ordinance.
- f) Inspections - The enforcing agent may enter the site of an earth change to obtain information for review of the erosion and sedimentation control plan and to conduct inspections during and after the earth change. The enforcing agent may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of Part 91, or this ordinance.
 - i. An initial inspection shall be done prior to the issuance of a permit. Verification of the soil erosion and sedimentation control plan shall be performed at that time. Soil type, size of the project, relationship to a watercourse, and the topography of the land shall be determining factors. A site that rates higher in soil erosion potential will require a more thorough review. The developer shall expect higher erosion and sedimentation control costs on these types of sites.
 - ii. To ensure compliance with the erosion and sedimentation control plan and permit, the enforcing agency shall inspect sites at any time during construction. The enforcing agency may conduct fewer inspections if, in the opinion of the enforcing agent, the conditions of this ordinance and the soil erosion and sedimentation control permit are being met.
- g) Permit Expiration - Extensions
- h) Expiration - Any site work conducted after permit expiration will be considered a violation and the enforcing agent shall issue a cease-and-desist order and/or municipal civil infraction.
- i) Extensions
 - i. If additional time is needed, applicant shall apply for an extension at least two weeks prior to permit expiration date.
 - ii. Updated construction schedule needs to be specific.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- iii. Extension fee shall be based on acreage unstabilized (see Exhibit "A").
 - iv. An extension is allowed only when the project has not changed in size or scope. Extensions are allowed for the purpose of final seeding and stabilization of the site when due to delays or weather or where the project was not able to be completed by the permit expiration date.
 - v. Only one permit extension will be granted. If project is not completed after extension expiration, a new Soil Erosion and Sedimentation Control permit application must be submitted to complete work, unless otherwise approved by the enforcing agent.
- j) Permit / Project Cancellation: If for any reason a project is canceled by the owner the following conditions apply:
- i. If a Soil Erosion and Sedimentation Control permit has not been issued and the application has not been processed (application and plan review plus site inspection) all application fees shall be returned in full.
 - ii. If a Soil Erosion and Sedimentation Control permit has not been issued, but the application has been processed a refund of 50% of the application fees shall be returned.
 - iii. If a Soil Erosion and Sedimentation Control permit has been issued, the permit shall be canceled with no refund of application fees.
 - iv. Site Plan & Soil Erosion and Sedimentation Control Plan Revisions
- k) If at any time after the Soil Erosion and Sedimentation Control Permit has been issued site plans and/or soil erosion and sedimentation control plans are revised by the permittee or the permittee's engineer all revised plans shall be submitted to the enforcing agent for review. If the permittee fails to notify the enforcing agent of plan revisions and the resulting revisions cause soil erosion, potential for erosion, or off-site sedimentation, a cease-and-desist order shall be issued.

200.2.8 Standards and Specifications for Erosion Control Measures: All soil erosion and sedimentation control plans and specifications including extensions of previously approved plans shall include provisions for erosion and sedimentation control in accordance with, but not limited to, the standards contained in the "Guidebook of Best Management Practices for Michigan Watersheds" published by the Michigan Department of Environmental Quality in addition to "The Field Office Technical Guide" published by United States Department of Agriculture/Natural Resources Conservation Service and other standards and specifications in existence in the area governed by this ordinance.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- a) General Principles - The following principles apply to all land disturbing activities within Ottawa County and should be used in the preparation of submissions required under this ordinance:
- i. To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with steep slopes where deep cuts and fills may be required should be avoided wherever possible and natural contours should be followed as closely as possible.
 - ii. Natural vegetation should be retained and protected wherever possible. Tree removal should be kept to a minimum wherever possible as they provide root/soil stability. Areas immediately adjacent to streams and lakes also should be left undisturbed wherever possible.
 - iii. All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
 - iv. Sediment basins, silt traps and filters shall be designed to remove sediment from storm water before the storm water leaves the site of the earth change activity.
 - v. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Basins, swale areas and mixed use of pavement/grass areas shall be used to provide storage for excess storm water that may otherwise cause channel scouring and increased flooding due to resultant velocities.
 - vi. Wintertime construction, defined as that occurring after October 15 and through March 31, or those sites determined to be environmentally sensitive as defined herein, will require additional controls and requirements which include:
 - 1) Use of straw blankets over all graded ditches, channels, swales and slopes.
 - 2) Daily inspections and maintenance and/or repair of controls immediately.
 - 3) Immediate stabilization including heavy mulch as areas are uncovered.
 - 4) More specific timetable for construction and maintenance activities planned for inclement weather.
 - 5) More significant phasing design and limits on amount of clearing at one time.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

200.2.9 Erosion and Sediment Control Requirements

- a) Prior to construction - To minimize the potential for soil erosion, development shall compliment the topography and soils of the site. Earth changes shall be conducted in a manner consistent with the standards in Section IX of this ordinance. Silt fence shall be installed and trenched in a minimum of six inches below the soil surface prior to commencement of sitework.
- b) Phasing of sitework - All earth changes shall be designed, constructed and completed in a manner which will limit the exposed area of disturbed land for the shortest possible period of time as determined by the county enforcing agent. This may require large sites with high erosion potential to be constructed in phases.
- c) Sediment control - Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change. All temporary and permanent erosion control measures designed and constructed for the conveyance of water around, through and from the earth change shall limit the water flow to a non-erosive velocity.
- d) Sediment basins / stormwater ponds - All temporary and permanent stormwater collection areas shall be one of the first items of construction. These facilities, including all temporary sediment basins and stormwater retention/detention areas, must be stabilized before allowing any stormwater to be discharged into them. The collection and filtering of all stormwater runoff from the site of the earth change is dependent upon these facilities being constructed and stabilized properly.
- e) Dewatering - Water discharged from a pump, sediment basin, or diversion channel shall not be discharged in a manner that causes erosion off-site or in the receiving channel or allows sediment to be discharged off-site or into the receiving channel.
- f) Soil Stockpiling - Soil stockpiled on-site shall be placed a significant distance from all bodies of water and shall be protected with silt fence and grass seeding to prevent erosion of stockpiles. Any soil stockpiles left on-site more than 2 months shall be seeded with a grass seeding. On sandy sites, a sprinkling system shall be set up to water stockpiles to prevent wind erosion.
- g) Tracking - Soil being tracked from a site onto public or private roadways shall be minimized. Installation of an access drive with rock or crushed concrete shall be used to limit tracking. If sedimentation occurs due to tracking from the site, the sediment shall be collected and removed in a

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

manner consistent with the intent of this ordinance. Daily street sweeping shall be performed as part of soil erosion and sedimentation control maintenance.

- h) Drain inlet protection - All storm drain inlets shall be protected against sedimentation through the use of silt sacks, filter fabric, or methods meeting the standards and specifications in Section IX of this ordinance.
- i) Site erosion control - Runoff passing through a site from adjacent areas shall be diverted from or around disturbed areas. Where it is part of an approved plan, one or more sediment basins shall be constructed. Field modifications of the existing erosion and sedimentation control plan may be made only following written permission from the county enforcing agent. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within five calendar days after final grading or the final earth change has been completed.
- j) Dust Control - Dust control measures for construction activities include minimization of soil disturbance, applying mulch and establishing vegetation, water spraying, surface roughening, applying polymers, spray-on tackifiers, chlorides, and barriers.

200.2.10 Maintenance of Soil Erosion and Sedimentation Control Measures

- a) During the period between initial ground breaking or site preparation and the stabilization of the soil surface resulting from final grading, all sediment basins and other soil erosion and sedimentation control measures shall be maintained by the contractor or landowner.
- b) Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which temporary and permanent soil erosion and sedimentation control measures are located.

200.2.11 Enforcement

- a) All earth changes in Ottawa County, including earth changes exempt from permit requirements are subject to the enforcement provisions and penalties of this ordinance.
- b) The county enforcing agent shall have the authority to issue a cease-and-desist order and shall revoke a permit upon its finding that there is a violation of Part 91, of this ordinance, or where there is a violation of any permit conditions, and may also be issued a municipal civil infraction. (Refer to Exhibit "B", municipal civil infraction fine schedule).
- i. The county enforcing agent shall issue a cease-and-desist order if:

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- 1) Any earth change regulated under this ordinance is being conducted without a Soil Erosion and Sedimentation Control Permit, and a municipal civil infraction shall be issued to the landowner or contractor of the activity.
 - 2) The erosion and sedimentation control plan is not being implemented in good faith.
 - 3) Conditions of the permit are not being met.
- ii. A cease-and-desist order may be rescinded if, in the opinion of the enforcing agent, the deficiencies have been corrected in a sufficient and timely manner.
 - iii. Three days after posting the cease-and-desist order, the enforcing agent may issue a notice of violation outlining the violations to the violator and stating that, five days after issuing the notice of violation, if deficiencies have not been corrected, the enforcing agent will use the surety bond or bank letter of credit to perform work necessary to provide compliance with this ordinance not to exceed \$10,000.00 or issue a municipal civil infraction. (The notice of violation shall contain a description of specific control measures that would bring the site into compliance.)
 - iv. Any violation of the provisions of this ordinance shall be subject to a municipal civil infraction according to the fine schedule in Exhibit "B". Each act of violation and each day a violation exists shall constitute a separate offense.
 - v. In addition to any other remedy provided in this ordinance or under the laws of the State of Michigan, a person who owns land and is not in compliance with the terms of this ordinance and who, after notice, refuses to implement and maintain soil erosion and sedimentation control measures in conformance with this part is responsible for a municipal civil infraction and may be ordered to pay a civil fine. Any Ottawa County Sheriff's Deputy, the Ottawa County Drain Commissioner, and any authorized employee agent or designee of the Ottawa County Drain Commissioner, are authorized to issue and serve a municipal civil infraction citation under this ordinance if he or she has reason to believe that a person has committed a municipal civil infraction violation of this ordinance.
 - vi. The enforcing agent shall notify the Michigan Department of Environmental Quality of all violations of this ordinance, including violations attributable to a land use by an authorized public agency.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

200.2.12 Definitions: The following terms and phrases shall have the meaning given herein, unless the context otherwise requires:

- a) **Accelerated Soil Erosion** - The increased movement of soils, via the process of soil erosion, that occurs as a result of human activities and development.
- b) **Agricultural Practices** - All land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops, including but not limited to diversion ditches, irrigation systems, surface and subsurface drainage facilities, ponds, animal waste facilities, construction of agricultural related buildings, land recontouring, roads.
- c) **Applicant** - A person applying for a permit pursuant to the provisions of this Ordinance.
- d) **Authorized Public Agency (APA)** - A state agency or an agency of a local unit of government authorized under section 9110 of Part 91 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.
- e) **Cease-and-Desist Order** - A notice issued by the Soil Erosion Control Agency to a landowner to require the landowner to cease earth change activities and remedy improper practices.
- f) **Certificate of Completion** - A signed written statement by the authorized enforcement agent that specific construction has been inspected and found to comply with all permit conditions and requirements specified in this ordinance.
- g) **Channel** - The portion of a natural stream which conveys normal flows of water or a ditch or channel excavated for the flow of water or which forms a connecting link between two or more bodies of water.
- h) **County Enforcing Agency (CEA)** - An agency designated by the Ottawa County Board of Commissioners pursuant to Part 91 to be responsible for the administration and enforcement of Part 91 and this ordinance.
- i) **Detention Basin** - A structure or facility, natural or artificial, which stores storm water on a short-term basis and releases it at a controlled rate. A detention basin may drain completely after a storm event or it may be a body of water with a fixed minimum and maximum water elevation between runoff events. A detention basin may also function as a sediment basin during construction activities.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- j) **Discharge** - The rate of flow of water passing a given point and time, measured in cubic feet per second (cfs).
- k) **Diversions** - An erosion control measure consisting of a dike, ditch or a combination of both that is used to intercept and redirect surface runoff.
- l) **Earth Change** - A human-made change in the natural cover or topography of land including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the water's of the state. Earth change does not include the practice of plowing and till soil for the purpose of crop production.
- m) **Enforcing Agent** - A person designated by the County Enforcing Agency to carry out Part 91 and the provisions of this ordinance.
- n) **Environmentally Sensitive Sites** - A site with one or more of the following characteristics:
 - i. Sites with heavy clay or clay/silt soils.
 - ii. Sites where an earth change will take place on slopes greater than 20% (5 ft. horizontal to 1 ft. vertical).
 - iii. Sites which may cause sedimentation onto adjacent lands if changes occur.
 - iv. Sites located within 100 ft. of protected wetland or a watercourse.
 - v. Other sites identified by local units of government as having a high potential for environmental degradation and flooding as a result of soil erosion or storm water runoff, on-site or off-site.
- o) **Erosion** - The process by which the ground surface is worn and carried away by the action of wind, water, gravity or a combination thereof.
- p) **Existing Grade** - The vertical location of the existing ground surface prior to excavation or filling.
- q) **Lake** - The Great Lakes, and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to or greater than one acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.
- r) **Local Ordinance** - An ordinance created by a local unit of government under Part 91 providing for soil erosion and sedimentation control.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- s) **Minor Earth Change** - Earth changes of a minor nature that will not result in sedimentation of a lake, stream, drainage system or adjacent property, where the disturbed earth surface is stabilized within one day of the initial earth disturbance. If an earth change activity is considered minor, a permit is not required.
- t) **Non-erosive Velocity** - A speed of water movement measured in feet per second that is not conducive to the development of accelerated soil erosion; the value will vary with the topography, surface cover and drainage system configuration.
- u) **Part 91** - Part 91, Soil Erosion and Sedimentation Control of the Natural Resource and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended.
- v) **Permanent Erosion and Sediment Control Measures** - Control measures which are installed or constructed to control soil erosion or off-site sedimentation which are left permanently in place and maintained after project completion.
- w) **Permittee** - The landowner whose property the earth change is being conducted on.
- x) **Phasing** - Constructing an earth change in a manner that limits the exposed area of disturbed land for the shortest possible period of time.
- y) **Protected Wetland** - A wetland which meets one or more of the following criteria:
 - i. A wetland which is within 500 feet of a lake or stream.
 - ii. A wetland which is five or more acres in size.
 - iii. A wetland subject to regulation by a township, village, city, county, state or federal government.
 - iv. A wetland which is within 1000 feet of the Great Lakes.
- z) **Retention Basin** - A storm water holding area, either natural or human made, which does not have an outlet other than an emergency overflow spillway. A retention basin may also function as a sediment basin.
- aa) **Sediment** - Mineral or organic solid particulate matter that has been removed from its point of origin by the processes of soil erosion, including but not limited to particles that have been deposited, are in suspension or are being transported as a result of soil erosion.

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

- bb) **Stabilization** - The proper placement, grading and/or covering of soil or land surface to insure resistance to soil erosion, sliding or other earth movement.
- cc) **Stream** - A river, creek or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being Section 280.1 et seq. of the Michigan Compiled Laws, and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.
- dd) **Vegetative Cover** - Grasses, shrubs, trees and other vegetation that provide a sufficient subsurface root mat system and coverage of soil surfaces to hold and stabilize soils.
- ee) **Watershed** - The area of land and water that drains snow melt and rain water to a lower, single exit point (receiving body) such as a lake or large river.
- ff) **Wetland** - Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh. A wetland will contain a predominance, not just an occurrence, of wetland vegetation, aquatic life, or hydric soil.
- gg) **Wetland Vegetation** - Plants, including but not limited to trees, shrubs and herbaceous plants that exhibit adaptations to allow under normal conditions germination or propagation or growth with at least their root systems in water or saturated hydric soil.

200.2.13 **Repeal of Prior Ordinances and Effective Date:** This Ordinance was originally adopted by the Ottawa County Board of Commissioners on August 13, 2002, as Ordinance No. 02-1 and was amended in its entirety in the form of Ordinance No. 05-1, by action of the Ottawa County Board of Commissioners on November 8, 2005. Ordinance No. 02-1 shall remain in effect through November 30, 2005. Ordinance No. 05-1 shall become effective on December 1, 2005. Any other ordinances or substantive provisions of any other ordinance which conflict with this Ordinance are hereby repealed as of the effective date of this Ordinance.

200.2.14 **Conflict with Criminal Laws:** Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

200.2.15 **Severability:** The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or

Article 2 - Environmental Ordinances
200.2 - Soil Erosion Control

otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: August 13, 2002

Original Ordinance Number: 02-1

Codified: April 9, 2019

Amended: by Ordinance 05-1 adopted on November 8, 2005

Article 2 - Environmental Ordinances
200.2 - Soil Erosion Control

EXHIBIT "A"

FEE SCHEDULE

Subdivisions or lot developments, Condos, Apartment Complexes, Mobile Home Parks, Commercial, Industrial Developments, Service Facilities, Schools, & Churches:

up to 1 acre \$150.00

each additional acre \$ 25.00

Cut & Fill Operations:

under 1 acre \$ 50.00

1st acre \$100.00

each additional acre \$ 25.00

Single Family Homes/Duplexes:

up to 1 acre \$ 50.00

each additional acre \$ 10.00

Residential, minor projects: \$ 30.00

Transportation Facilities, Utilities, Oil & Mineral Wells:

up to ½ mile \$100.00

each additional mile \$ 40.00

Water Impoundments, Construction or Improvements:

ponds and wetlands less than ¼ acre \$ 50.00

ponds and wetlands ¼ acre or more \$100.00

waterway construction or improvement \$ 50.00

ly with permit conditions \$750.00

Other violations \$750.00

First repeat offense \$1,500.00

Second and subsequent repeat offense \$2,500.00

Sand & Gravel Mining Operations:

1st acre \$200.00

Article 2 - Environmental Ordinances

200.2 - Soil Erosion Control

each additional acre. \$10.00

extension (per acre) \$10.00

Extension of Permit Fee, (other than sand and gravel mining operations):

Standard \$25.00 per acre for portion of project not complete (acreage shall be rounded up)

Assurance of Compliance Bond: A bond will be required in the amount of the estimated cost of erosion and sedimentation controls, plus 10% prior to the approval of a permit on sites 10 acres or greater in size, in the form of surety bond, certified check or irrevocable bank letter of credit, whichever the applicant selects. A bond may also be required for under 10 acres at the discretion of the enforcing agent.

Article 2 - Environmental Ordinances
200.2 - Soil Erosion Control

EXHIBIT "B"

CIVIL INFRACTION FINE SCHEDULE

Single Family Homes/Duplexes:

(Sec 200.2.5. (a.) No permit \$100.00

Repeat offense \$250.00

Other violations \$250.00

Repeat offense \$750.00

Subdivision or Lot Developments, Condos, Apartment Complexes, Mobile Home Parks, Commercial Developments, Industrial Developments, Services Facilities, Schools, Churches, Cut & Fill Operations, Transportation Facilities, Utilities, Oil & Mineral Wells, Water Impoundment Construction or Improvements, Sand & Gravel Mining Operations and all other development:

(Sec 200.2.5. (a.) No Permit \$750.00

(Sec 200.2.9. (e.) Failure to file dewatering plan or failure to follow approved dewatering plan \$750.00

(Sec 200.2.10. (a.) Failure to maintain sedimentation and erosion controls \$750.00

(Sec 200.2.7. (e. iii.) Tracking sediment onto roadway \$750.00

(Sec 200.2.7. (e. ii.) Failure to stabilize critical areas \$750.00

(Sec 200.2.7. (e. ii.) Failure to repair de-stabilized areas \$750.00

(Sec 200.2.7. (e.) Failure to comp

Article 2 - Environmental Ordinances

200.3 - Phosphorous Use Regulation

Phosphorous Use Regulation

200.3.1 Statutory Authority: This Ordinance is adopted under the authority of MCL 46.10b.

200.3.2 Purpose: The Ottawa County Board of Commissioners finds that Ottawa County's lakes, rivers and streams are natural assets, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in lawn fertilizer, entering the lakes, rivers and streams of Ottawa County will improve and maintain lake and stream water quality by reducing algae blooms and the excess growth and spread of other aquatic plants. The Ottawa County Board of Commissioners finds that unreasonable adverse effects on the environment of Ottawa County and on the public health of the citizens of Ottawa County and the visitors to Ottawa County will occur unless this Ordinance is adopted to ban and/ or control the use of lawn fertilizers containing phosphorus.

200.3.3 Applicability:

- a) This Ordinance applies in all areas of Ottawa County.
- b) Townships, cities and villages wholly or partially in Ottawa County may assume administration and regulation of lawn fertilizer application if they have adopted ordinances that includes standards at least as restrictive as those described in Sections 5 through 8.

200.3.4 Definition:

- a) "Agriculture uses" means beekeeping, dairying, egg production, floriculture, fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, berries, sod farming and vegetable raising.
- b) Fertilizer has the meaning in MCLA 324.8501(k).
- c) Lawn fertilizer means any fertilizer, whether applied by property owner, renter or commercial entity, intended for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for garden or indoor use.

200.3.5 Regulation of the Use and Application of Lawn Fertilizer:

- a) Effective January 1, 2008, no person shall apply any lawn fertilizer within Ottawa County that is labeled as containing more than 0% phosphorus, except as provided in Section 6 of this Ordinance.
- b) No lawn fertilizer shall be applied when the ground is frozen.
- c) No person shall apply lawn fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer

Article 2 - Environmental Ordinances

200.3 - Phosphorous Use Regulation

must be immediately removed from those surfaces and either legally applied to turf or placed in an appropriate container.

200.3.6 Exemptions: The restrictions upon the use of lawn fertilizer under Section 5 of this Ordinance shall not apply to:

- a) Newly established turf or lawn areas during their first growing season.
- b) Turf or lawn areas that soil tests, performed within the past three years by the Michigan State University Extension Service or other qualified or recognized authority in the area of soil analysis, confirm are below phosphorus levels established by the Michigan State University Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
- c) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- d) Yard waste compost, bio-solids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

200.3.7 Enforcement: This Ordinance will be enforced by the Environmental Health Division of the Ottawa County Health Department.

200.3.8 Civil Infraction Penalties; Injunctive Relief: Any person who violates Section 5 in the application of lawn fertilizer at his or her residence shall be subject to a civil infraction penalty of fifty (\$50) dollars per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates Section 5, and any person violates Section 7 shall be subject to a civil infraction penalty of \$50 for the first violation within a twelve (12) month period, \$150.00 for the second violation within a twelve (12) month period, and \$300.00 for the third and each subsequent violation within a twelve (12) month period. The repeated use of lawn fertilizer in violation of this Ordinance may also be declared a nuisance, subject to injunctive and other equitable relief in the Ottawa County Circuit Court.

200.3.9 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: March 14, 2006

Original Ordinance Number: 06-1

Codified: April 9, 2019

Amended:

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

Groundwater Use Ordinance (SW Landfill Vicinity)

Article 200.4.1.1-AUTHORITY

Michigan counties have been delegated the right to adopt ordinances on topics over which they have jurisdiction. See MCL §46.11 et seq. MCL §333.2441 authorizes a County to enact regulations that are at least as stringent as state law on Health related issues. MCL §333.2451 authorizes a County to issue an order upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, specifying actions to be taken to avoid, correct, or remove the imminent danger. MCL §333.2455 empowers a County to order a property owner to “avoid, correct, or remove at the owner’s expense” a condition which the “local health officer or director reasonably believes to be a nuisance, unsanitary condition or cause of illness.” State law prohibits any person from discharging “directly or indirectly” into the waters of the state a substance that is or may become injurious to the public health, safety or welfare. MCL §324.3109.

Article 200.4.1.2-PURPOSE

The purpose of this Ordinance is to fulfill the above-described responsibilities of Ottawa County and to protect the public health, safety, and welfare through the imposition of restrictions on the use of groundwater where there is municipal water available and where there is the possibility that the continued use of well water will lead to the human consumption of contaminated groundwater or the inadvertent spread of contaminated groundwater beyond its natural migration.

Article 200.4.1.3-DEFINITIONS

In addition to the adoption of the terms shall have the following terms shall have the meanings described in this Article:

200.4.1.3.1 **“Affected Area”** means an area within the County that the Board declares to have municipal water available and to be potentially affected by a contaminated groundwater plume.

- a) **“Board”** means the Ottawa County Board of Commissioners.
- b) **“Contaminated groundwater”** means groundwater in which there is present, or may be present, materials that may exceed the residential drinking water criteria established by the MDEQ by rule or operational memoranda pursuant to Part 201 of the Michigan Natural Resources and Environmental Protection Act, or its successors, being 1994 PA 451, as amended.

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

- c) **“County”** means Ottawa County.
- d) **“Groundwater”** means underground water within the zone of saturation.
- e) **“MDEQ”** means the Michigan Department of Environmental Quality or its successor.
- f) **“Ordinance”** means this Contaminated Groundwater Use Ordinance.
- g) **“OCHD”** means the Ottawa County Public Health Department.
- h) **“ORC”** means the Ottawa County Road Commission.
- i) **“Person”** means any individual or legal body corporate.
- j) **“Sheriff”** means the elected Sheriff of the County, including any of his or her authorized and sworn deputies.
- k) **“Well”** means an opening in the surface of the earth for the purpose of removing groundwater for any purpose, including but not limited to heating, cooling, irrigation, dewatering, human consumption, processing, monitoring, remediation and emergency fire services.
- l) **“Influential Well”** means a well outside the Affected Area but which impacts the contaminated groundwater within the Affected Area, whether by directly drawing such contaminated groundwater into the well or by merely changing the direction of such groundwater’s flow.

Article 200.4.1.4-PROHIBITION, RESTRICTIONS and REQUIREMENTS

Except as provided in Article 6, no person shall install, utilize, allow, permit or provide for the installation or utilization of a well within any Affected Area or an Influential Well. In addition, each person shall comply with the following restrictions:

200.4.1.4.1 *Sources of Water Supplied for Human Consumption.* Except as provided in Article 6, water supply for human consumption in the Affected Areas shall be delivered only from municipal water systems or the use of bottled water delivered or purchased in containers under conditions approved by the County’s Environmental Health Officer or other appropriate agency. For purposes of this subsection, the term “human ingestion” means use in food preparation or food service, use in the interior of a dwelling or dwelling unit for household purposes, and use in any building for personal washing or consumption.

- a) Wells Affecting Contaminated Groundwater. No Influential Well nor a well

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

within the Affected Area may be used or installed if it will have the effect of spreading or diverting a contaminated groundwater plume, unless the well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.

- b) Non-conforming wells. Any existing well, the use of which is prohibited by Article 6, shall be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction and in conformance with and according to the procedures outlined in the Ottawa County SW Landfill Well Abandonment Plan, attached as Exhibit B, and as approved by the MDEQ and as implemented by the OCHD.
- c) Well Abandonment Process. Each person who owns real property in the Affected Area and within 300 feet of the Affected Area shall complete and submit to the Ottawa County Environmental Health Officer a Well Notification Form as attached as Exhibit C.

Article 200.4.1.5-DESIGNATION OF AFFECTED AREAS

The areas identified in Exhibit A, attached hereto, are found to be Affected Areas as of the date of the enactment of this Ordinance. By resolution, the Board may designate additional areas of the County as Affected Areas if it finds that there is a Contaminated Groundwater plume underlying or upgradient that justifies, requires, or warrants an application of the Prohibitions of this Ordinance. The Board may delist any Affected Area upon a resolution finding that the Affected Area no longer contains a Contaminated Groundwater plume that justifies, requires or warrants an application of the Prohibition of this Ordinance. The County's Environmental Health Officer shall keep and maintain a list of all current, Affected Areas, which shall be subject to this Ordinance, and shall periodically file that list with the Ottawa County Clerk, who shall provide a copy of such list with every copy of the Ordinance that is disseminated.

Article 200.4.1.6-EXCEPTIONS

A person may install or utilize or allow, permit, or provide for the installation or utilization of a well within an Affected Area if any of the following exceptions apply and the requirements of the exception are complied with:

200.4.1.6.1 *Water Service Unavailable.* An existing residential well in an Affected Area may be maintained for residential purposes provided:

- a) The water is tested annually by a laboratory that is acceptable to and for chemical parameters specified by the OCHD, and the results of that test are

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

promptly submitted to the OCHD for review;

- b) Based on those tests, the OCHD annually determines that the well is safe and suitable for use; and
- c) The homeowner agrees that municipal hookup will be made at the time of property conveyance.

200.4.1.6.2 *Proof of No Influence.* If the MDEQ determines that the use of an Affected Area well is not influenced or potentially influenced by Contaminated Groundwater and further determines that the use of that well will remain permanently unaffected by the future migration of Contaminated Groundwater, and proof of these determinations is delivered to the OCHD, the County Environmental Health Officer may issue a waiver allowing the use of the well.

200.4.1.6.3 *Groundwater Monitoring.* An Affected Area well may be used for Groundwater monitoring and/or remediation as part of response activity approved by the MDEQ.

200.4.1.6.4 *Construction Dewatering.* A well may be used in an Affected Area for construction dewatering if the following conditions are satisfied: (i) the use of the dewatering well will not result in unacceptable exposure to Contaminated Groundwater, possible cross-contamination between saturated zones, or movement of Contaminated Groundwater plumes toward an area that is not contaminated and (ii) the water generated by that activity is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction. Any exacerbation caused by the use of the well under this exception shall be the responsibility of the person operating the dewatering well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, being MCL 324.20101 to 324.20142.

200.4.1.6.5 *Processing Activities.* If an owner demonstrates to the satisfaction of the County's Environmental Health Officer that use of a well in an Affected Area for non-contact heating, cooling, irrigation or processing activities will not cause the future migration of contaminated groundwater, or contamination of any other environmental media through its use or discharge, the County's Environmental Health Officer may execute a waiver allowing the use of the well.

200.4.1.6.6 *Public Emergencies.* A well may be used in an Affected Area in the event of a public emergency, but only if expressly authorized by the County's Environmental Health Officer and written notice is provided to the MDEQ and Environmental Health Officer.

200.4.1.6.7 *Remediation purging.* Groundwater purge wells may be operated within an Affected Area, if consistent with all applicable laws and written notice is provided to the MDEQ and Environmental Health Officer.

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

Article 200.4.1.7-ENFORCEMENT & REMEDIES

200.4.1.7.1 *Administration.* The County's Environmental Health Officer shall make the determinations required under this Ordinance, shall enforce the provisions of the Ordinance, and may request assistance from the Sheriff's Department and Prosecutor.

200.4.1.7.2 *Appearance Ticket.* If the County's Environmental Health Officer or Sheriff determines that there is probable cause that this Ordinance has been violated, they are authorized to issue and serve an Appearance Ticket upon a person or entity violating the Plan or this Ordinance. The Appearance Ticket shall direct the recipient to appear in the appropriate District Court within Ottawa County on a specified date to respond to the alleged violation.

200.4.1.7.3 *Civil and Criminal Penalties.* Enforcement may be accomplished by civil action and/or criminal prosecution, along with any other remedies provided by law. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished by imprisonment in the County jail for not more than ninety (90) days, or by fine of not more than five hundred (\$500) and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of this Ordinance nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance is hereby declared a nuisance per se.

200.4.1.7.4 *Register of Deeds and County Clerk.* A copy of this Ordinance shall be filed with the register of deeds as an ordinance affecting multiple properties, and a copy of this Ordinance shall be on file with the County Clerk.

Article 8-SEVERABILITY AND MODIFICATION

The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: January 27, 2009

Original Ordinance Number: 09-1

Codified: April 9, 2019

Amended:

Article 2 - Environmental Ordinances

200.4.1 - Groundwater Use Ordinance (SW Landfill Vicinity)

EXHIBIT A

(I) PARK TOWNSHIP SITE

Generally, this Site is bordered by Riley Street to the North, 160th Avenue to the East, Lakewood Boulevard to the South and Lake Michigan to the West, and includes the Southwest Landfill and extends to the vertical extent of the upper aquifer, which is between 10 and 100 feet. See Map attached hereto as A-1.

The particular area subject to the Ordinance may be described as: “commencing from a point approximately 900 feet south of Riley Street and 700 feet west of 160th Avenue, thence south 1,800 feet, thence southwest 1,200 feet, thence southwesterly 2,500 feet to a point on James Street Approximately 2,000 feet east of 168th Avenue, thence Southwest 2,200 feet to a point on 168th Avenue approximately 1,100 feet south of James Street, thence westerly 2,700 feet to a point on Lakeshore Drive approximately 1,4000 feet south of James Street, thence west 1,000 feet to Lake Michigan, thence north 3,400 feet, thence east 1,000 feet to a point on Lakeshore Drive approximately 1,00 feet north of James Street, thence northeast 2,800 feet to a point on 168th Avenue approximately 2,600 feet north of James Street, thence northeast 3,2000 feet, thence east 1,900 feet to the point of the beginning.”

Article 2 - Environmental Ordinances
200.4.2 - Ground Use Ordinance (SW Landfill)

Ground Use Ordinance (SW Landfill)

Article 200.4.2.1 - Authority

200.4.2.1.1 Michigan counties have been delegated the right to adopt ordinances on topics over which they have jurisdiction. See MCL §46.11 et seq. MCL §333.2441 authorizes a County to enact regulations that are at least as stringent as state law on Health related issues. MCL §333.2451 authorizes a County to issue an order upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, specifying actions to be taken to avoid, correct, or remove the imminent danger. MCL §333.2455 empowers a County to order a property owner to “avoid, correct, or remove at the owner’s expense” a condition which the “local health officer or director reasonably believes to be a nuisance, unsanitary condition or cause of illness.”

Article 200.4.2.2 - Purpose

200.4.2.2.1 The purpose of this Ordinance is to fulfill the above-described responsibilities of Ottawa County and to protect the public health, safety, and welfare through the imposition of restrictions on the use of contaminated ground within the County.

Article 200.4.2.3 - Definitions

200.4.2.3.1 In addition to the adoption of the terms shall have the following terms shall have the meanings described in this Article:

- a) **“Affected Area”** means an area within the County that the Board declares to contain contaminated ground and which has been the subject of an MDEQ approved environmental closure or clean up and can benefit from the Institutional Controls of this Ordinance.
- b) **“Board”** means the Ottawa County Board of Commissioners.
- c) **“Contaminated Ground”** means the soils and surface in which there is present, or may be present, materials that may exceed the residential clean up criteria established by the MDEQ by rule or operational memoranda pursuant to Part 201 of the Michigan Natural Resources and Environmental Protection Act, or its successors, being 1994 PA 451, as amended.
- d) **“County”** means Ottawa County.
- e) **“Environmental Closure or Clean-up Facility or Fixture”** means any improvement located within an Affected Area that is involved in the monitoring, closure or clean-up of Contaminated Ground through an MDEQ

Article 2 - Environmental Ordinances
200.4.2 - Ground Use Ordinance (SW Landfill)

approved closure, clean-up or monitoring plan, including but not limited landfill or facility vents or caps; leachate or groundwater collection or treatment piping, equipment, buildings or other systems; and groundwater or gas monitoring wells, piping, equipment, buildings or other systems

- f) **“Institutional Controls”** means the measures in this Ordinance to avoid, correct, or remove a condition that could directly or indirectly place individuals in the area at risk of unsanitary condition or illness due to interference with the remedy components of an MDEQ approved environmental closure or clean-up plan.
- g) **“MDEQ”** means the Michigan Department of Environmental Quality or its successor.
- h) **“Ordinance”** means this Contaminated Ground Use Ordinance.
- i) **“Person”** means any individual or legal body corporate.
- j) **“Sheriff”** means the elected Sheriff of the County, including any of his or her authorized and sworn deputies.

Article 200.4.2.4 - Prohibition and Restrictions

200.4.2.4.1 Except as provided in Article 6, no person shall violate and each person shall comply with the following restrictions within any Affected Area:

- a) **Physical access to restricted space.** Except as provided in Article 6, no person shall enter or cause a physical object to enter a facility, area, zone or other space within an Affected Area that has been marked as a restricted Environmental Closure or Clean-up Fixture or Facility by signage, fencing or other access controls.
- b) **Interference with remedial facilities or fixtures.** Except as provided in Article 6, no person shall access, tamper with, damage, adjust, alter, or otherwise interfere with the operation or capacity of any Environmental Closure or Clean-up Fixture or Facility within an Affected Area.

Article 200.4.2.5 - Designation of Affected Areas

200.4.2.5.1 The areas identified in Exhibit A, attached hereto, are found to be Affected Areas as of the date of the enactment of this Ordinance. By resolution, the Board may designate additional areas of the County as Affected Areas if it finds that there is a Contaminated Groundwater plume underlying or upgradient that justifies, requires, or warrants an application of the Prohibitions of this Ordinance. The Board may delist any Affected Area

Article 2 - Environmental Ordinances
200.4.2 - Ground Use Ordinance (SW Landfill)

upon a resolution finding that Affected Area no longer contains a Contaminated Groundwater plume that justifies, requires or warrants an application of the Prohibition of this Ordinance. The County's Environmental Health Officer shall keep and maintain a list of all current, Affected Areas, which shall be subject to this Ordinance, and shall periodically file that list with the Ottawa County Clerk, who shall provide a copy of such list with every copy of the Ordinance that is disseminated.

Article 200.4.2.6 - Exceptions

200.4.2.6.1 A person shall not held in violation of the prohibitions of Article 4 under one or more of the following circumstances:

- a) *Authorized Access for Inspection, Maintenance, Repair or Improvement.* An authorized agent or contractor of the owner or operator of an Environmental Closure or Clean-up Fixture or Facility within an Affected Area property or an authorized agent of the MDEQ, United States EPA or Ottawa County Health Department acting in their official capacities may access an Environmental Closure or Clean-up Fixture or Facility for purposes of inspection, maintenance, repair or improvement.
- b) *Public Emergencies.* A police, fire, or licensed contractor may access an Environmental Closure or Clean-up Fixture or Facility in an Affected Area in the event of a public emergency, but only if for the limited purpose of securing, stabilizing or protecting the Fixture or Facility and/or public health and only if the Environmental Health Officer so authorizes either before, during or immediately after the access and written notice is provided to the MDEQ.

Article 200.4.2.7 - Enforcements and Remedies:

200.4.2.7.1 *Administration.* The County's Environmental Health Officer shall make the determinations required under this Ordinance, shall enforce the provisions of the Ordinance, and may request assistance from the Sheriff's Department and Prosecutor.

200.4.2.7.2 *Appearance Ticket.* If the County's Environmental Health Officer or Sheriff determines that there is probable cause that this Ordinance has been violated, he or she is authorized to issue and serve an Appearance Ticket upon a person or entity violating the Plan or this Ordinance. The Appearance Ticket shall direct the recipient to appear in the appropriate District Court within Ottawa County on a specified date to respond to the alleged violation.

200.4.2.7.3 *Civil and Criminal Penalties.* Enforcement may be accomplished by civil action and/or criminal prosecution, along with any other remedies provided by law. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished by imprisonment in the County jail for not more than

Article 2 - Environmental Ordinances
200.4.2 - Ground Use Ordinance (SW Landfill)

ninety (90) days, or by fine of not more than five hundred (\$500) and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of this Ordinance nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance is hereby declared a nuisance per se.

200.4.2.7.4 *Register of Deeds and County Clerk.* A copy of this Ordinance shall be filed with the register of deeds as an ordinance affecting multiple properties, and a copy of this Ordinance shall be on file with the County Clerk.

Article 200.4.2.8 - Severability and Modification

200.4.2.8.1 The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: January 27, 2009

Original Ordinance Number: 09-2

Codified: April 9, 2019

Amended:

Article 2 - Environmental Ordinances
200.4.2 - Ground Use Ordinance (SW Landfill)

EXHIBIT A

(I) PARK TOWNSHIP SITE

Generally, this Site is bordered by Riley Street to the North, 160th Avenue to the East, Lakewood Boulevard to the South and Lake Michigan to the West, and includes the Southwest Landfill and extends to the vertical extent of the upper aquifer, which is between 10 and 100 feet. See Map attached hereto as A-1.

The particular area subject to the Ordinance may be described as: “commencing from a point approximately 900 feet south of Riley Street and 700 feet west of 160th Avenue, thence south 1,800 feet, thence southwest 1,200 feet, thence southwesterly 2,500 feet to a point on James Street Approximately 2,000 feet east of 168th Avenue, thence Southwest 2,200 feet to a point on 168th Avenue approximately 1,100 feet south of James Street, thence westerly 2,700 feet to a point on Lakeshore Drive approximately 1,4000 feet south of James Street, thence west 1,000 feet to Lake Michigan, thence north 3,400 feet, thence east 1,000 feet to a point on Lakeshore Drive approximately 1,00 feet north of James Street, thence northeast 2,800 feet to a point on 168th Avenue approximately 2,600 feet north of James Street, thence northeast 3,2000 feet, thence east 1,900 feet to the point of the beginning.”

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

Farmland Preservation

An ordinance creating the Ottawa County Farmland Preservation Program which protects farmland by acquiring development rights voluntarily offered by landowners. This Ordinance authorizes the cash purchase and/or installment purchases of such development rights through sources other than the County General Fund, places an agricultural conservation easement on the property which restricts future development, and provides the standards and procedures for the purchase of development rights and the placement of an agricultural conservation easement.

THE PEOPLE OF THE COUNTY OF OTTAWA, MICHIGAN, DO ORDAIN:

Section 200.5.1: Declaration of Purpose

200.5.1.1 *Economic importance of farmland and agriculture.* Ottawa County's agricultural land is a unique and economically important resource. These lands support a locally important and globally unique agricultural industry that includes; dairy, livestock, food from grains, vegetables, fruit, and nursery and greenhouse crops. Ottawa County's climate, topography, and accessibility make it uniquely suited to the production, processing, and distribution of agricultural products on a regional, national, and international level. Ottawa County's economic base is also supported by a variety of agriculturally related businesses including; farm equipment, fuel, veterinarians, grain dealers, packaging plants, and professional services.

200.5.1.2 *Importance of other non-agricultural attributes of farmland.* In addition to its economic benefits, the County's farmland contributes significantly to the open space and natural resource benefits, including rural character, scenic beauty, cultural heritage, hunting and other recreational opportunities, and the environmental benefits including watershed protection and wildlife habitat. By enhancing the scenic beauty and rural character of the county and providing other open space benefits, the county's farmland increases the overall quality of life and makes the county an attractive place to live and work for all of the county's residents.

200.5.1.3 *The extent of development and farmland loss.* Among other factors, Ottawa County's natural resources, productive farmland and rural character have made it become a desirable place to live and work. Ottawa County's population growth has continued to increase dramatically. As the population increases and people move into the countryside, land is converted to non-agricultural uses.

200.5.1.4 *The Impact of farmland loss.* Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more developed uses that do not require those special characteristics, a critical community resource

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

is permanently lost to the citizens of the County. Residential development in agricultural areas also makes farming more difficult by increasing conflict over farming practices and increased trespass, liability exposure and property damage. Because agricultural land is an invaluable economic, natural and aesthetic resource, the county should make an effort to maintain certain agricultural land in a substantially undeveloped state to ensure the long-term viability of agriculture and to create a long-term business environment for agriculture in the County.

200.5.1.5 *State and local policies.* It is the policy of the State of Michigan and Ottawa County to protect, preserve and enhance farmland as evidenced by Township Master Plans, the Farmland and Open Space Preservation Act, the State Agricultural Preservation Fund, the Conservation and Historic Preservation Easement Act, portions of the County Zoning Act, and other state and local statutes and policies. These measures by themselves, however, have not effectively provided sufficient long-term protection of farmland in Ottawa County from the pressure of increasing residential and commercial development.

200.5.1.6 *Value of development rights.* Generally, farmland has a greater market value for future residential development than the market for farming. The features of good farmland, such as perkable soils and open space views, are also the features desired for residential home sites. This fact encourages the speculative purchase of farmland at high prices for future residential development, regardless of the current zoning of such lands. Farmland which has a greater development potential and market value than its agricultural value does not attract sustained agricultural investment and eventually is sold to non-farmers and removed from agricultural use.

200.5.1.7 *Purpose of the program.* It is the purpose of the Ottawa County Farmland Preservation Program and this development rights ordinance to protect farmland in order to maintain a long-term business environment for agriculture in the county, to preserve the rural character and scenic attributes of the county, to enhance important environmental benefits and to maintain the quality of life of county residents.

200.5.1.8 *Mechanism to achieve purpose.* The purchase of development rights and the placement of an agricultural conservation easement on farmland through the Ottawa County Farmland Preservation Program as provided for in this Ordinance is a public purpose of Ottawa County. Acquisition of development rights requires that the County enter into agreements with property owners to obtain such development rights. Properties on which the County has purchased development rights and entered into an agricultural conservation easement shall remain substantially undeveloped in order to remain viable for agricultural use.

200.5.1.9 *Intent of Ordinance.* The intent of this ordinance is to provide a mechanism for farmland preservation. It is not the intent of this ordinance to provide or commit County General Funds for this program. The funding of activities under this ordinance will remain the prerogative of future County Boards of Commissioners. The actual number of

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

acres for which development rights will be purchased will also remain the prerogative of future County Boards of Commissioners.

Section 200.5.2: Definitions

200.5.2.1 “Agricultural conservation easement” means a conveyance by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.

200.5.2.2 “Agricultural use” means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program, a federal conservation reserve program, or a wetland reserve program. Agricultural use does not include the management and harvesting of a woodlot.

200.5.2.3 “Development” means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with an agricultural use.

200.5.2.4 “Development rights” means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development purposes or to extract minerals incidental to a permitted use or as set forth in an agricultural conservation easement.

200.5.2.5 “Farmland” means 1 or more of the following:

- a) A farm of 40 or more acres in one ownership, with 51% or more of the land area devoted to an agricultural use.
- b) A farm of five acres or more in one ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set-aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
- c) A farm designated by the Department of Agriculture as a specialty farm, in one ownership, that has produced a gross annual income of \$2,000.00 or more from an agricultural use. Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; and other similar uses and activities.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

- d) Parcels of land described above do not have to be contiguous but must constitute an integral part of a farming operation being conducted on land otherwise qualifying as farmland.

200.5.2.6 “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

200.5.2.7 “Parcel” means a quantity of land in the possession of a single owner.

200.5.2.8 “Permitted use” means any use expressly authorized within an agricultural conservation easement consistent with the farming operation or that does not adversely affect the productivity or agricultural use of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least three of the immediately preceding five years. Permitted use includes oil and gas exploration and extraction, but does not include other mineral development that is inconsistent with an agricultural use.

200.5.2.9 “Property owner” means the party or parties having a freehold estate or fee simple interest in land.

200.5.2.10 “PDR program” means a program as defined in the County Zoning Act for the Purchase of Development Rights by a county.

Section 200.5.3: Authorization

200.5.3.1 Pursuant to the Zoning and Enabling Act, the County Board of Commissioners is authorized to purchase the development rights of farmland throughout the County. Such acquisition may be by purchase, gift, grant, bequest, devise, covenant or contract. The County shall only purchase development rights with contributions originating from sources other than the County General Fund, and on farmland that is voluntarily offered for sale by a property owner.

200.5.3.2 The County is authorized to enter into installment purchase contracts, options, and agreements or take receipt of tax-deductible donations of easements, consistent with applicable law. The County is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment purchase contract.

200.5.3.3 The County may contract with recognized and legally established nonprofit land trusts or other experienced and qualified individuals, parties or entities that would assist the County in the process of reviewing and processing grants, negotiating easements and purchase contracts, purchasing development rights, establishing baseline studies and procedures for monitoring, actual monitoring of any agricultural conservation easements acquired under this Ordinance, and enforcement of the conservation easement agreement. Payment for said contracts will be from contributions from sources other than those originating from the County General Fund.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

200.5.3.4 The County is authorized to seek grants from Federal and State government and private foundations, organizations and individuals for funding for expenditures incurred in carrying out this ordinance.

Section 200.5.4: County Agricultural Preservation Board

200.5.4.1 The County Board of Commissioners shall create a seven member body under this Ordinance to be named the County Agricultural Preservation Board. The seven voting members shall be residents of the county and will be appointed by the County Board of Commissioners and will include:

- a) one County Commissioner
- b) three individuals with agricultural interests
- c) one representative from township government
- d) one individual with real estate or development interests
- e) one individual representing local conservation interests.

200.5.4.2 Members of the County Agricultural Preservation Board shall serve three-year terms, with the exception that the County Commissioner representative shall be designated on an annual basis. The initial term shall be staggered so that one of the agricultural representatives and the real estate representative serve an initial one-year term, another agricultural representative and the local township representative serve an initial two-year term and the third agricultural representative and the local conservation representative serve an initial three-year term. Members may be re-appointed to successive three-year terms by the County Board of Commissioners. The County Board of Commissioners shall have the discretion to remove members for inefficiency, neglect of duty or malfeasance in office. Vacancies due to removal or resignation shall be filled for the remainder of a term by appointment by the County Board of Commissioners. Members shall not be compensated for their services. Further, members must comply with the Ottawa County Attendance Policy.

200.5.4.3 The County Agricultural Preservation Board shall oversee the County's Purchase of Development Rights Program and shall be responsible for:

- a) (Establishing selection criteria for the ranking and prioritization of applications. The selection criteria must be approved by the County Board of Commissioners prior to each application cycle.
- b) Reviewing and providing oversight in scoring all applications according to the adopted selection criteria.
- c) (Ranking and prioritizing the top scoring applications for acquisition and making recommendations to the County Board of Commissioners for the purchase of development rights.
- d) Approving the restrictions and permitted uses under the agricultural conservation easement.
- e) Establishing the price to be offered to the property owner and authorize negotiations for the purchase of development rights and agricultural

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

conservation easement. All purchases of development rights and agricultural conservation easements must be approved by the County Board of Commissioners.

- f) Establishing monitoring procedures and overseeing subsequent monitoring to insure compliance with the agricultural conservation easement. Enforcement of the agricultural conservation easement in the case of non-compliance shall be the responsibility of the County Board of Commissioners or an agency that the Board of Commissioners contracts with (utilizing funds other than those originating from the County General Fund) to enforce the program.

200.5.4.4 Individual County Agricultural Preservation Board members shall disclose any potential conflict of interest and may not vote when a conflict exists. Conflicts of interest include, but are not confined to, situations where:

- a) the member is a close relative of the applicant
- b) the board member has a close business association or ties with the applicant
- c) the board member, a relative, or a business associate could receive financial gain or benefit from the acceptance of the application.

200.5.4.5 The County shall contract with qualified and experienced individuals or entities to administer, oversee, and execute the Ottawa County PDR Program. Contracted services will be funded through fees assessed to the landowner or local unit of government as outlined in section 11.

200.5.4.6 The County Agricultural Preservation Board shall provide the County Board of Commissioners with an annual report outlining the administration of the program, issues addressed and outcomes of the program for the proceeding year, including the selection criteria, number of applications, number of eligible properties, agricultural value, development rights purchased, and other information regarding the status and activities undertaken with respect to this ordinance.

Section 200.5.5: Eligibility for Application

200.5.5.1 Any property owner may submit an application to the county farmland preservation program provided the application meets the following requirements:

- a) The property owner has signed the application, indicating interest in voluntarily selling the development rights to the parcel.
- b) At least 51% of the parcel's area is devoted to an active agricultural use and no more than 49% of the parcel may be devoted to non-agricultural open space consisting of wetlands, woodlands, or otherwise unusable land.
- c) The property is not planned for commercial or industrial uses under the township, city or village master plan.
- d) Agricultural activities are a permitted use on the parcel under all applicable zoning ordinances.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

200.5.5.2 Further, the County shall not purchase development rights under a development rights ordinance from land subject to a township, city, or village zoning ordinance unless all of the following requirements are met:

- a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township, city, or village zoning are based.
- b) The legislative body of the township, city, or village adopts a resolution authorizing participation in the PDR Program.
- c) The city, village or township provides the county with written approval to purchase the development rights through the County PDR Program.

Section 200.5.6: Criteria for Reviewing and Ranking Applications

200.5.6.1 The County Agricultural Preservation Board shall establish selection criteria for ranking and prioritizing all eligible parcels submitted to the County Farmland Preservation Program which criteria shall be subject to the approval of the County Board of Commissioners.

200.5.6.2 The selection criteria shall place an emphasis on farmland that:

- a) As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township provides the county with written approval to purchase the development rights through the County PDR Program.
- b) Has a productive capacity suited for feed, food, fiber, and fuel and has a greater potential for long-term agricultural production. Specific selection criteria may be based on soil classifications, parcel size, agricultural income, enrollment in the Farmland and Open Space Preservation Act, or the implementation of a soil conservation plan.
- c) Is under the threat of development. Specific selection criteria may be based on proximity to public sanitary sewer or water, the extent of development activity in the township or the amount of road frontage.
- d) Complements other farmland protection efforts in the County. Specific selection criteria may include proximity to other permanently protected farmland, proximity to other protected lands or surrounding land enrolled in the State Farmland and Open Space Preservation Act, or inclusion in an agricultural zoning district.

200.5.6.3 Selection criteria shall also include the following:

200.5.6.4 Availability of additional matching funds provided by a local unit of government, landowner or private sources.

200.5.6.5 Other factors considered important by the County Agricultural Preservation Board such as unique physical, historical or environmental characteristics.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

Section 200.5.7: Application and Selection Process

200.5.7.1 The County shall on an annual basis, at the discretion of the County Agricultural Preservation Board, conduct a voluntary application and selection process for property owners who wish to sell development rights under the County Farmland Preservation Program.

200.5.7.2 The County Agricultural Preservation Board shall begin each application cycle by giving reasonable public notice of the deadline for the receipt of applications to the County Farmland Preservation Program. Notification may include publication in a newspaper of general circulation within the County, through the County Farm Bureau, County Conservation District, County MSU-Extension Service, local township offices, and other organizations.

(Amended July 23, 2013)

200.5.7.3 All applications represent the applicant's intent to sell the development rights of the property to the County subject to mutually acceptable terms. The application will remain active per annual written approval of landowner, provided there are no subsequent modifications to the scoring criteria or application that requires additional information. Local cities, villages, and townships will be asked to sign a letter of continued support for standing landowner applications and all applications, both new and old, will be scored and ranked for each cycle.

200.5.7.4 The County Agricultural Preservation Board shall give notice to each city, village, or township in which an applicant for the purchase of development rights has been received, and the disposition of that application.

200.5.7.5 At the close of the application deadline, an initial determination of eligibility shall be completed by the County Agricultural Preservation Board or individuals or entities which have contracted with the County to perform those services. The property owner shall be notified if their application is not eligible for the program. Each application shall be evaluated and scored according to selection criteria approved by the County Agricultural Preservation Board and the County Board of Commissioners prior to the application cycle.

200.5.7.6 The County Agricultural Preservation Board shall rank parcels according to the selection criteria score but shall also individually evaluate and prioritize the top scoring parcels. The County Agricultural Preservation Board may reprioritize the top scoring parcels based on individual review of each application and establishing a priority on which development rights should be purchased first based on available funds. The written rationale for reprioritization of the top scoring parcels shall be included with each application.

200.5.7.7 The final ranking and prioritization of applications shall be submitted to the County Board of Commissioners for their approval.

200.5.7.8 Agricultural value shall be based upon a price established by the County Agricultural Preservation Board using a state certified appraiser.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

200.5.7.9 Upon mutual agreement to the terms of the purchase by the property owner and the County Agricultural Preservation Board, but before the approval of the County Board of Commissioners, a title search shall be completed before signing and recording of the agricultural conservation easement. Any questions or concerns regarding clear title to the property shall be resolved prior to signing of the agricultural conservation easement. All individuals, parties or entities with an interest in the property must be willing to agree to the terms and provisions of the agricultural conservation easement.

200.5.7.10 Each purchase of development rights and agricultural conservation easement requires the approval of the County Board of Commissioners. The County Board of Commissioners may alter the recommendation by the County Agricultural Preservation Board to purchase the development rights at its discretion.

200.5.7.11 Once the application has been approved for purchase by the County Board of Commissioners, the County and the property owners shall sign the agricultural conservation easement and it shall be legally recorded with the County Clerk's office.

200.5.7.12 The County shall notify the appropriate local unit of government of each agricultural conservation easement.

200.5.7.13 The agricultural conservation easement will be monitored in accordance with procedures and guidelines established by the County Agricultural Preservation Board.

Section 200.5.8: Agricultural Conservation Easement Provisions

200.5.8.1 Upon the agreement of the sale of development rights by the County Agricultural Preservation Board, the property owner and the County Board of Commissioners, the County and the property owner shall execute an agricultural conservation easement, approved by the County Agricultural Preservation Board and the County Board of Commissioners, that will perpetually protect the parcel's agricultural use by preventing any use that would significantly impair or interfere with the agricultural value or use of the farmland. The agricultural conservation easement shall contain a provision indicating that the easement runs with the land and may not be terminated except as provided for in this Ordinance and the easement.

200.5.8.2 Restrictions on that portion of the property included in the agricultural conservation easement shall include, but not be limited to, the following:

- a) Property shall not be divided into parcels less than 40 acres in size.
- b) The construction of residences for new owners of any divisions shall be prohibited.
- c) Construction of any other buildings, unless they are built for uses consistent with farming operations shall be prohibited.
- d) Commercial or industrial activity that is inconsistent with a typical farming operation shall be prohibited.
- e) Excavation of topsoil, sand, gravel, rock, minerals or other materials that significantly impairs or interferes with the agricultural values of the property

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

shall not take place without prior written approval of the County Board of Commissioners or its designee.

200.5.8.3 Permitted uses and retained development rights in the agricultural conservation easement shall include, but not be limited to, the following:

- a) Construction of buildings necessary for and consistent with agricultural uses.
- b) The right to construct one additional residence for an individual essential to the farm operation as defined in section 36110(5) of the Natural Resources and Environmental Protection Act, MCL 324.36110(5); MSA 13A.36110(5). Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
- c) The right to maintain, renovate, add on to, or replace existing structures. Structure built must be in conformance with all applicable federal, state, and local laws, ordinances and regulations.
- d) The right to sell, mortgage, bequeath or donate the property, provided any conveyance will remain subject to terms of the easement.

Section 200.5.9: Duration of the Agricultural Conservation Easement

200.5.9.1 The agricultural conservation easement shall run with the land regardless of transfers in property ownership. It is the intent of this ordinance to preserve valuable farmland through the establishment of permanent conservation easements. Development rights acquired pursuant to this Ordinance shall be held by the County in perpetuity and the development rights may be repurchased by the landowner only when a court of competent jurisdiction has determined through eminent domain that the use of those development rights is necessary for a specific public interest, need or purpose.

200.5.9.2 Upon a court's determination of eminent domain and that the purchase of the development rights from the County is necessary for a specific public interest, need or purpose, the parties exercising the use of the development rights through eminent domain or the landowner shall pay the fair market value of those development rights at the time of their purchase to the County, as determined by a State Certified Appraiser, before the termination of the agricultural conservation easement. The value of the development rights shall be determined as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place or the value of the developments. If the appraiser has a conflict of interest associated with a potential appraisal, the appraiser shall report the conflict to the County and the County shall select another appraiser to complete the appraisal.

200.5.9.3 The County will deposit the proceeds from any repurchases into the farmland preservation fund and the proceeds shall be used to reimburse the County for the expense associated with selling the development rights under eminent domain. Remaining funds shall be used to purchase additional development rights and agricultural conservation easements on additional farmland within the county.

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

Section 200.5.10: Determining the Value of the Agricultural Conservation Easement

200.5.10.1 The County Agricultural Preservation Board shall utilize a state certified appraiser to determine the value of the development rights utilizing funds not originating from the County General Fund, prior to each application cycle. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place.

200.5.10.2 The property owner may obtain, within a reasonable time frame, an independent appraisal of the development rights from a state certified appraiser at the property owner's expense. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place.

200.5.10.3 The County Agricultural Preservation Board shall approve the price to be offered and paid for the agricultural conservation easement. If the property owner obtains an independent appraisal, the County Agricultural Preservation Board may elect to renegotiate the initial offer based on qualified circumstances.

200.5.10.4 The property owner may be paid a cash payment or offered an installment purchase contract, or a combination of both. Payment will be made through contributions from sources other than those originating from the County General Fund.

Section 200.5.11: Related Costs

200.5.11.1 The cost to administer, oversee, and execute the PDR Program will be paid for through the following fees: Application Fee, Application Ranking Fee, Grant Processing Fee, and Development Rights Acquisition Fee. The fees shall be paid by the landowner or the township, city, or village in which the property is located. Other technical expenses, such as, but not limited to, title searches, appraisals, and surveying shall also be paid for by the landowner or the township, village, or city in which the property is located. These costs are separate from the administrative and processing fees. The County, at its discretion, may use the Farmland Preservation Fund to help offset the cost of fees or technical expenses if such funding is available.

Section 200.5.12: Farmland Preservation Fund

200.5.12.1 Available funding for the County farmland preservation program shall be deposited in a special farmland preservation fund. Money in such farmland preservation fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of county money. The revenues from the deposit and/or investment of the farmland preservation fund shall be applied and used solely for the purpose of purchasing

Article 2 - Environmental Ordinances

200.5 - Farmland Preservation

of development rights and agricultural conservation easements under this Ordinance, making payments obligated under installment purchase contracts, promoting farmland preservation programs, or paying for costs of administering, monitoring, and enforcing the county farmland preservation program. Ottawa County is not liable for any cost that might exceed the available funds in the Farmland Preservation Fund.

200.5.12.2 Supplemental or matching funds from private sources or other governmental agencies, including local municipalities, the State or Federal government, may become available to pay a portion of the cost of acquiring development rights or agricultural conservation easements or to supplement or enlarge such acquisitions. The County Board of Commissioners authorizes the County Agricultural Preservation Board to use such funds to purchase development rights of farmland and acquire agricultural conservation easements.

200.5.12.3 The County, upon approval by the County Board of Commissioners, may finance the County Farmland Preservation Program through one or more of the following sources:

- a) Proceeds from the sale of development rights by the County under Section 9.
- b) Grants
- c) Donations
- d) Special assessments as permitted by law
- e) Other sources approved by the County Board of Commissioners and permitted by law
- f) Fees as outlined in section 11

Section 200.5.13: Amendments

200.5.13.1 This Ordinance may be amended at the discretion of the County Board of Commissioners by majority vote.

Section 200.5.14: Severability

200.5.14.1 The phrases, sentences, sections, and provisions of this Section are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History:

Amended by Ordinance 13-1 adopted on July 23, 2013

Enacted: April 22, 2008

Original Ordinance Number: 08-1

Codified: April 9, 2019

Amended: by Ordinance 13-1 adopted on July 23, 2013

Article 3 - Public Safety Ordinances

300.1 – Animal Control

Animal Control

WHEREAS the control, regulation and protection of animals is important in protecting the public health of Ottawa County citizens and their interests;

WHEREAS, the following Ordinance provides for the collection of stray and unwanted animals, licensing and rabies vaccination of dogs, issuance of health permits for dog kennels, regulation of animal behavior and the keeping of animals, impoundment of animals, and the establishment of a public spay/neuter clinic:

NOW, THEREFORE, the Ottawa County Board of Commissioners ordains as follows:

ARTICLE CCC.I.I – General Provisions

Short Title: This Ordinance may be known as and may be cited and referred to as “The Ottawa County Animal Control Ordinance.”

Limitations: This Ordinance shall not be construed to apply within any city or township which has adopted an animal control ordinance pursuant to MCL §287.290.

Authority: The authority for this Ordinance is found in 1919 Public Act No. 339, being MCL §287.261 et seq, 1978 Public Act No. 368, Part 24, being MCL §333.2435-§333.2441 and MCL §46.11(j).

Agents: Whenever a power is granted to, or a duty is imposed upon the Sheriff, the power may be exercised, or the duty performed, by a deputy duly appointed by the Sheriff to exercise such power, or to perform such duty unless this Ordinance expressly provides otherwise.

Establish Guidelines: The Sheriff may establish guidelines and policies concerning the interpretation of these Ordinances. The guidelines and policies shall be subject to review and approval by the Board of Commissioners, prior to implementation.

Severability: The various sections, paragraphs, sentences, clauses, and phrases of these Ordinances are hereby declared severable. If a court of competent jurisdiction adjudges any section, paragraph, sentence, clause, or phrase unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

Replacement: Adoption of this Ordinance rescinds, revokes, supersedes and replaces any prior County ordinance, resolution or regulation covering these topics:

ARTICLE CCC.I.II – Definitions

Definitions: Whenever the following terms are used they shall have the meanings set forth in this article.

300.1.2.1 “Aggressive Animal” shall mean an animal that exhibits menacing behavior on public or private property including that of its owner or keeper. “Menacing behavior”

Article 3 - Public Safety Ordinances

300.1 – Animal Control

shall include, but not be limited to: charging, scratching, toppling, teeth-baring, snapping, growling, or other predatory mannerisms, directed at a person or other animal in a place where the person or other animal is legally entitled to be.

300.1.2.2 “Animal Control Officer” shall mean any the individual appointed by the Ottawa County Sheriff who is hereby designated to work with the Director and to otherwise enforce this Ordinance and the 1919 Dog Law.

300.1.2.3 “Animal Shelter” shall mean the animal boarding facility used by Ottawa County to house stray or unwanted animals. The Ottawa County Board of Commissioners may contract for the use of another county’s or entity’s animal control shelter.

300.1.2.4 “Dangerous Animal” shall mean an animal that bites or otherwise causes serious injury to a person or other animal on public or private property when the injured person or other animal is legally entitled to be, including the property of the animal’s owner or custodian. An animal that is intentionally trained or conditioned to fight or guard, except for animals trained for law enforcement or services purposed which engaged in the activities for which they were trained, shall be considered a dangerous animal.

300.1.2.5 “Director” shall mean the Director of the Ottawa County Health Department or his/her designee.

300.1.2.6 “Department” shall mean the Ottawa County Health Department.

300.1.2.7 “Dog Kennel” shall mean any establishment which keeps on boards dogs for profit whether for breeding, sale or sporting purposes.

300.1.2.8 “Nuisance Animal” shall mean an animal running at large, on public or private property other than that of its owner or keeper, whose behavior constitutes a nuisance. Nuisance behavior shall include, but not be limited to: (a) biting or otherwise making physical contact with a person or other animal in a harassing manner; (b) urinating or defecation without the collection by the owner or keeper; or (c) damaging inanimate personal property.

300.1.2.9 “Owner” when applied to the proprietorship of an animal for the purpose of this Ordinance, shall mean any person who has a right of property in an animal, or any person who permits an animal to remain on or about any premises for seven consecutive days.

300.1.2.10 “Person” shall mean an individual person, a firm, partnership, corporation, trust or any association of persons.

300.1.2.11 “Tag” shall mean a physical identification emblem or device in a form approved by the Department, consistent with state statutes, as an appropriate verification of the license and other information deemed relevant by the Department.

Exceptions

An animal shall not be considered a nuisance, aggressive or dangerous animal where its offending act is caused by; (a) an illness or injury suffered by the animal at the time of the act; (b) the negligent or reckless conduct of any person to whom the act is directed; (c) lawful hunting while the animal is under the control of its owner or custodian; or (d) defense of the animal’s owner or members of the owner’s family or household, or their property.

Article 3 - Public Safety Ordinances

300.1 – Animal Control

ARTICLE CCC.I.III – Collection of Stray and Unwanted Animals

300.1.3.1 Capture: The Animal Control Officer or any deputy of the Ottawa County Sheriff may capture or take into custody:

- a) Unlicensed dogs;
- b) Dogs without current rabies vaccination certificates;
- c) Dogs which are running loose or which are not held properly in leash while off the owner's property;
- d) Stray unwanted, abandoned or abused animals,
- e) Animals maintained contrary to any city or township ordinance other than an animal control ordinance adopted pursuant to MCL §287.290;
- f) Animals which the owner or custodian is not able to properly care for a result of:
 - i. Illness;
 - ii. Bankruptcy;
 - iii. Litigation;
 - iv. Other contingencies;
- g) Any animal which has bitten a person.

300.1.3.2 Observation: The Animal Control Officer may capture and take into custody, or accept and care for any animal held for observation-at the recommendation of a doctor, a veterinarian, or the County Health Department.

300.1.3.3 Private Property: With probable cause to believe a violation of State Statutes or this Ordinance is occurring, the Animal Control Officer is authorized to enter any premises or property for purposes of examining, capturing, or rescuing any animal or to conduct inspections of all properties, public or private, in conjunction with the fulfillment of the duties and responsibilities in this Ordinance. No person shall refuse to permit the Animal Control Officer, after proper identification, to inspect any premises in accordance with MCL §333.2446.

300.1.3.4 Exhibition of Animals, Licenses or Certificates of Vaccination: The Animal Control Officer or deputy of the Ottawa County Sheriff may require that a person owning any dog exhibit the dog, the required vaccination certificate, or the current license and license tag for such dog.

300.1.3.5 Failure to Show License: Any person upon whom a demand is made under authority of this Ordinance for the exhibition of any dog, rabies vaccination certificate, license or tag, who fails or refuses to exhibit the same if he has it in his possession, is in violation of this Ordinance.

300.1.3.6 Interference with an Animal Control Officer: No person shall interfere with, oppose or resist the Animal Control Officer while he is engaged in the performance of any act authorized by this Ordinance.

300.1.3.7 Unauthorized Removal From the Shelter: No person shall remove any animal from the custody of the Animal Control Officer nor shall any person

Article 3 - Public Safety Ordinances

300.I – Animal Control

remove any animal from the Animal Shelter without first receiving permission from the Animal Control Officer.

300.I.3.8 Reclamation: All reclaimed dogs must be licensed as specified to Articles IV and VIII.

ARTICLE CCC.I.IV – Individual Dog Licensing

300.I.4.1 Licensing Required: All dogs shall be licensed by the County except:

- a) A dog under four months of age;
- b) A dog licensed by a municipality in which the dog owner and dog reside;
- c) A dog licensed by another state or county in which the dog and owner reside, if the owner will be present in Ottawa County for thirty days or less;
- d) Dogs kept in dog kennels licensed pursuant to MCL §287.270.

300.I.4.2 Rabies Vaccination: All dogs shall be currently protected by a rabies vaccine active at the time of license issuance. Such vaccine shall be administered by a veterinarian except when a veterinarian states in writing that the dog should not be vaccinated for medical reasons and indicates when the dog can be vaccinated.

300.I.4.3 Licensing Limitations: A dog license shall be issued for only an animal which has a current rabies vaccination; provided, however, that a license may be issued to an unvaccinated dog if the veterinarian certification set forth in Section 402 hereof has been obtained.

300.I.4.4 Individual Licenses: The County Treasurer or his agent shall issue licenses as provided by MCL §287.274. License fees shall be established from time to time by the County Board of Commissioners.

300.I.4.5 License Late Fees: Failure to comply with the licensing requirements of Section 404 will result in the imposition of such late fees and penalties as may be established from time to time by the County Board of Commissioners.

300.I.4.6 Wearing of Tags. A license tag shall be worn by each licensed dog at all times.

300.I.4.7 Concealment of Dogs: No person shall conceal any dog or conceal ownership of any dog when questioned by the Animal Control Officer.

ARTICLE CCC.I.V – Dog Kennels

300.I.5.1 Kennel Licenses: Any person who owns, keeps or operates a kennel may, in lieu of individual licenses required for dogs under this Ordinance and under the Statutes of the State of Michigan apply to the County Treasurer's Office or Animal Shelter for a kennel license entitling that person to own, keep or operate such kennel in accordance with applicable Laws of the State, including but not limited to MCL §287.270. The dogs in the kennel covered by the kennel license must be kept for sale, boarding, breeding, training or sporting purposes for remuneration. Pets must be licensed individually and will not be covered under the kennel license.

Article 3 - Public Safety Ordinances

300.1 – Animal Control

300.1.5.2 Application for Kennel Health Permit: In order to obtain a kennel license, any person who owns, keeps or operates a kennel at any single location within the boundaries of Ottawa County except in cities, villages, or townships with their own animal control agency, shall; (1) within thirty (30) calendar days prior to the start of such operation, or; (2) a person which has been previously issued a kennel license shall apply for a new kennel license by June 1 of each year, to the County Treasurer's Office or Animal Shelter, which shall issue such license if the kennel is in compliance with Sections 10 and 11 of Act 339, of the Public Acts of 1919, as amended, being Sections 287.270 and MCL §287.271, and with any applicable ordinance of the city, 18 village or township in which it is located. The County Treasurer or Animal Shelter will not issue a kennel license to any person who has been denied a kennel license by the city, village or township where they reside. Failure to apply for a kennel license within the prescribed time limits will result in a doubling of the applicable fee.

300.1.5.3 Inspection: The Animal Control Officer shall have the right to inspect any kennel in the Ottawa County in order to determine whether said kennel is in compliance with this Ordinance and the State Statute. If the kennel has been issued a license, it shall be the duty of the Animal Control Officer to suspend said license if, in the Officer's opinion, conditions exist which are not in compliance with this Ordinance, Section 10 of Act 339 of the Public Acts of 1919, as amended, being MCL §287.270, and the rules of the Michigan Department of Agriculture, pending correction of such conditions, and further shall have the ability to revoke said license if such conditions are not corrected within a designated reasonable time.

300.1.5.4 Double Fencing: All licensed kennels shall be required to have double fencing. The fencing on a dog run shall constitute one fence. The fence on the outer perimeter shall be constructed in such a manner as to prevent stray animals and people from making direct contact with kennel animals. Exceptions to the above would be: 1) solid fence such as a solid privacy fence and/or 2) animals kept inside a building or solid structure.

300.1.5.5 Conditions of Kennel: Any dog kennel which under Michigan State Law is to be covered by a license shall be of such construction as will adequately and comfortably house any dogs kept therein during any season of the year. The buildings, including walls and floor, shall be of such construction as to be readily cleaned and kennels and yards connected therewith used to confine kennel dogs shall be kept clean and free from accumulation of filth and debris. All dogs kept or maintained in connection with such kennels shall be furnished with a clean, fresh water supply and adequate and proper food to maintain such animals in a state of good health.

300.1.5.6 Rabies: Any kennel dog four (4) months old or older must have a current rabies vaccination as evidenced by a valid certificate of vaccination for rabies with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian or affidavit of the kennel owner. Failure to comply with this requirement shall be a violation of this Ordinance and subject the dog's owner to the penalties set forth in Article XII.

Article 3 - Public Safety Ordinances

300.1 – Animal Control

300.1.5.7 Revocation of Permit: A kennel health permit may be revoked if a condition exists which will endanger the health of the community or if the kennel is, in the opinion of the Director, not in compliance with this Ordinance.

300.1.5.8 Forfeiture of Fee. Upon revocation of a kennel health permit no part of the fees paid for the license and health permit shall be returned and such fees shall be forfeited to the County.

300.1.5.9 Display of License and Health Permit: Every person having a kennel license and a kennel health permit shall keep the license and permit posted and exhibited in a conspicuous manner at the kennel.

300.1.5.10 Local Zoning: No kennel health permit shall be valid for any kennel which violates any zoning ordinances or official land use plan. No permit shall be valid where such use is declared a nuisance by the relevant Township Board or City Commission.

300.1.5.11 Fees: The Ottawa County Board of Commissioners shall set the fees associated with this Article and all other provisions in this Ordinance.

ARTICLE CCC.I.VI – Animal Behavior

300.1.6.1 Dogs Running Stray: A person who owns or has custody or control of a dog shall prevent the dog from running at large. A person who owns or has custody or control of a dog shall, at any time the dog is off that person's property, restrain the dog with a lead or leash no greater than six (6) feet in length.

300.1.6.2 Defecation: A person who owns or has custody or control of an animal shall prevent the animal from defecating on any public or private property other than his own or shall immediately collect and properly dispose of all fecal matter deposited by the animal while it is off his property.

300.1.6.3 Stray Livestock: A person who owns or has custody or control of livestock or poultry shall prevent such animals from running at large on public or private property without the consent of the property owner, provided, however, that this Section shall not prohibit leading or driving livestock, under the owner's or custodian's supervision, along a public highway.

300.1.6.4 Nuisance, Aggressive or Dangerous Animal or barking dog: A person who owns or has custody of an animal shall prevent the animal from engaging in nuisance, aggressive or dangerous behavior. The owner of a dog shall prevent the dog from barking, whining or howling in excessive or continuous fashion.

ARTICLE VII – Impoundment Procedures

300.1.7.1 Animal Shelter: The Animal Shelter is the animal custodial care facility designated as such by the County, which designation may occur by contract with a third party including but not limited to the Ottawa County Humane Society. The Animal Control Officer shall hold all animals impounded by him in the Animal Shelter. Any stray

Article 3 - Public Safety Ordinances

300.1 – Animal Control

animal found in Ottawa County may be delivered to the custody of the Shelter during normal working hours.

300.1.7.2 Relinquishing Strays: Any person picking up any stray animal may assist the Animal Control Officer by holding such animal for the Animal Control Officer to pick up or by delivering it to the Animal Shelter.

300.1.7.3 Apprehension of Strays: Any person finding a stray animal may assist the Animal Control Officer by holding such animal for the Animal Control Officer to pick up or by delivering it to the Animal Shelter.

300.1.7.4 Length of Impoundment: Length of impoundment shall be:

- a) **Unlicensed Animals:** The Animal Shelter shall hold all healthy unlicensed animals for four days after which time, the animal may be humanely destroyed.
- b) **Licensed Dogs:** The Animal Shelter shall hold all healthy stray dogs with current, valid licenses seven days from the date notice is given after which time, the animal may be humanely destroyed.
- c) **Sick or Injured Animals:** Any animal that is suffering unduly may be destroyed at the discretion of the Animal Control Officer.
- d) **Voluntarily Surrendered Animals:** Any animal may be destroyed at the request of the owner for a fee set from time to time by the County Board of Commissioners.

The length of impoundment shall be computed by excluding the first day the animal is brought to the shelter and including the last day of confinement. If the last day is Saturday, Sunday or legal holiday, the period shall be extended to the next day which is not Saturday, Sunday, or legal holiday.

300.1.7.5 Records: The Animal Shelter shall keep a record of each animal impounded by it, the date of the impounding, the date and manner of its disposal and if redeemed, reclaimed or sold, the name and amount of all fees collected by the County because of the impounding, reclaiming, or purchasing of the animal, together with the number of any license tag or kennel license exhibited or purchased upon the redemption or sale. The Animal Control Officer shall keep similar records but only in the event that the animal is not impounded in the Animal Shelter.

300.1.7.6 Notice: When any animal wearing a current, valid license tag issued by the County of Ottawa or any municipality with the County of Ottawa is impounded pursuant to this Ordinance, the Animal Control Officer or the Animal Shelter if impounded there, shall, within twelve working hours after receiving such animal, give written notice of the animal's confinement to the person to whom the license was issued.

300.1.7.7 Compliance: The Animal Control Officer or Animal Shelter shall not release or sell any animal that has been impounded in accordance with this Ordinance unless the person to whom the animal is released or sold provides satisfactory proof that

Article 3 - Public Safety Ordinances

300.1 – Animal Control

the animal will be licensed and maintained in accordance with this Ordinance and any other relevant ordinance or statute.

300.1.7.8 Medical Attention: The Animal Control Officer or Animal Shelter may employ a veterinarian whenever he deems it necessary in a medical emergency in order to properly care for an impounded animal. The County or Animal Shelter shall charge a fee for veterinary services and such animal shall not thereafter be redeemed without payment of such fee in addition to other impoundment fees and costs.

300.1.7.9 Payment of Fees: The Animal Control Officer or Animal Shelter shall not release any dog unless the dog is first licensed and vaccinated against rabies and all fees and costs are paid as established from time to time by Ottawa County Health Department and the Ottawa County Board of Commissioners.

300.1.7.10 Unclaimed Animals: All animals not reclaimed within a period of time established for the holding of strays, shall be destroyed or sold at the discretion of the Animal Control Officer or the Animal Shelter provided such destruction or sale is consistent with the provisions of any County contract with the Animal Shelter.

ARTICLE CCC.I.VIII – Keeping of Animals

300.1.8.1 General Ordinances: Every person who owns or who has charge, care or custody of an animal shall comply with each of the following requirements:

- a) **Feeding:** Each animal shall be supplied with sufficient, good, wholesome food and water as often as the feeding habit of the animal requires.
- b) **Cleanliness:** All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.
- c) **Unattended Animals:** No animal shall be without attention for more than twenty-four hours. Whenever a commercial animal facility is left unattended, the name, address and telephone number of the owner of the facility and the person responsible for the care of animals shall be posted in a conspicuous place at the front of the facility.
- d) **Dangerous Surroundings:** No condition shall be maintained or permitted that is, or could be injurious to the animal.
- e) **Teasing:** Every reasonable precaution shall be taken to insure that animals are not teased, abused, mistreated, annoyed, tormented or made to suffer by any person or means.
- f) **Protection:** All reasonable precautions shall be taken to protect the public from animals and animals from the public.
- g) **Sick Animals:** Every commercial animal facility shall isolate sick animals sufficiently so as not to endanger the health of other animals.
- h) **Ventilation and Light:** Every building or enclosure where in animals are maintained shall be constructed of materials easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent

Article 3 - Public Safety Ordinances

300.1 – Animal Control

drafts and to remove odors. Heating and cooling shall be provided as required according to the physical needs of the animals with sufficient light to allow observation of the animals.

- i) **Veterinarian Attention:** The owner or custodian shall take an animal to a veterinarian for an examination and treatment if the Animal Control Officer finds this is necessary in order to maintain the health of the animal, and so orders.
- j) **Caged:** All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodation for the animals kept therein.
- k) **Shelter:** Proper shelter and protection from the weather provided at all times and as a minimum shall consist of a three-sided shelter of suitable size.
- l) **Structural Strength:** Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect the animals from injury, contain the animal and restrict the entrance of other animals.

300.1.8.2 Cruelty:

- a) **Beating.** No person shall beat, kick, hit, bite, burn or in any other manner cause an animal to suffer needlessly.
- b) **Injury:** No person shall cause abusive injury to an animal.
- c) **Teasing:** No person shall tease or entice a dog or other animal.
- d) **Alcohol:** No person shall give an animal any alcoholic beverage unless prescribed by a veterinarian.
- e) **Incompatible Animals:** No person shall allow animals, which are natural enemies, temperamentally unsuited, or otherwise incompatible to be quartered together or so near each other as to cause injury, fear, or torment. If two or more animals are trained so that they can be place together and without attacking each other, or performing, or attempting any hostile act toward each other, such animals shall not be considered enemies.
- f) **Injurious Tack:** No person shall allow the use of any tack, equipment, device, substance or material that is, or could be, injurious or cause unnecessary cruelty to any animal.
- g) **Proper Exercise:** Working animals shall be given exercise proper for the individual animal under this particular conditions.
- h) **Working Sick Animals:** No person shall work or use any animal which is overheated, weakened, exhausted, sick, injured, diseased, lame, or otherwise unfit.
- i) **Dog in Heat:** No person having a dog in heat shall permit her to be contained in a fashion which gives stray animals access to her or which permits her to escape.

Article 3 - Public Safety Ordinances

300.1 – Animal Control

j) **Confinement:** No person shall confine a dog on a chain for more than four hours unless the chain permits movement over at least 30 square feet and allows the dog free access to a suitable shelter.

k) **Abandonment:** No person shall abandon an animal.

300.1.8.3 Sale of Fowl or Rabbits: No person shall give, sell, or offer to see any chicks, ducklings or other fowl under three months of age or rabbits under two months of age. This section does not prohibit the proper sale of such animals for breeding purposes.

300.1.8.4 Exotic Animals: No person shall keep any exotic animal or type of animal which are objectively a hazard to the community because of a threat to safety or of disease. For purposes of this subsection, “exotic animal” means any animal that is native to a foreign country and is not native to any state of the United States.

ARTICLE CCC.IX – Public Spay/Neuter Clinic

300.1.9.1 General: The Director may establish or designate a clinic at which members of the public may have dogs or cats spayed or neutered. It shall be the goal of this clinic to provide services at a reduced cost for animals owned by persons who would not otherwise have their animals altered.

300.1.9.2 Costs: The fees and costs of surgery shall be established by the County Board of Commissioners.

300.1.9.3 Certification of Ownership: Any person submitting a dog or cat for the above service shall sign a consent form prepared by the Department of Health certifying that he is the owner of the animal (or setting forth facts showing that he is otherwise authorized to present the animal for the above operation) and such person may be required to furnish proof of ownership or authority. The consent shall waive liability of the County, the Animal Shelter, and County employees for injury or death to the animal arising out of the aforementioned operation.

300.1.9.4 Abandonment: The Animal Shelter shall establish a return date by which a person submitting a dog or cat for the above operation shall pick-up said animal or be subject to reasonable board and care fees commencing the day after the return date. Failure to pick up an animal within five days of a return date shall be deemed abandonment of the animal and the director may dispose of it by sale or destruction.

ARTICLE CCC.IX –Bites

300.1.10.1 Reporting: An owner of an animal which is known to have bitten another person is obligated to promptly report the bite to the Animal Control Officer and/or the Department and preferably within twenty-four (24) hours of the bite. The Animal Control Officer or the Director may require that the owner of the animal complete the form attached as Exhibit B, hereto. Any owner must provide proof upon request of the animal’s rabies shots or vaccinations and if the owner refuses, the animal will be presumed to have no current protections.

Article 3 - Public Safety Ordinances

300.1 – Animal Control

300.1.10.2 Quarantine: Every animal which is known to have bitten a person shall be quarantined for a period of not less than ten (10) days after the bite. Such quarantine shall be at the Animal Shelter, a veterinary office, or a place designated by the Animal Control Officer. The owner shall surrender the animal to the Animal Control Officer upon request.

300.1.10.3 Public Hazard: Any animal that is known to have bitten a person or other animal may be declared a public health hazard by the Animal Control Officer. At his discretion, the Animal Control Officer may require that the animal be removed from the community, quarantined or confined in a manner specified by the Animal Control Officer.

ARTICLE CCC.I.XI—ENFORCEMENT and PENALTIES

300.1.11.1 Fines: Any person who violates this ordinance may be responsible for a municipal civil infraction violation punishable by a municipal civil infraction fine, which shall not be less than \$100 for an initial infraction and not less than \$200 for subsequent infraction within five (5) years and not to exceed five hundred dollars (\$500.00) and the costs of prosecution, in the discretion of the court. In accordance with MCL §333.2441, violation of Article IX.2 (Cruelty) or Article IX.4 (dangerous exotic animals) may be considered a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars (\$500.00) or both.

300.1.11.2 Enforcement: The Animal Control Officer or any deputy of the Ottawa County Sheriff may also order correction of a violation and may specify the nature of corrective action required and a reasonable time limit for the corrective action to be completed. In the case of violations that may present an imminent danger to public health and safety, immediate corrective action may be required. The Animal Control Officer and any Sheriff's Deputy is also authorized to issue and serve municipal civil infraction citations if he or she has reasonable cause to believe that a person has committed a violation of this Ordinance. The citation shall contain a description of the violation, whether it is a misdemeanor or civil infraction, and shall cite the specific sections of the State Statutes or this Ordinance that apply. A court which finds an individual responsible for a civil infraction or guilty of a misdemeanor may exercise equitable powers within its authority to compel current and future compliance with this Ordinance.

300.1.11.3 Costs and Fees List: The Ottawa County Board of Commissioners shall determine fees and costs for various licenses, services and costs provided or incurred under this Ordinance. Exhibit A attached hereto contains a list of fees and costs approved by the Ottawa County Board of Commissioners, which list shall be updated from time to time.

300.1.11.4 Violations Bureau: The Ottawa County Treasurer's Offices has been established as the Violations Bureau for the municipal civil infraction violations. All persons that receive a municipal civil infraction citation shall have thirty (30) days to pay

Article 3 - Public Safety Ordinances

300.1 – Animal Control

the fine to the Treasurer's Office. Thereafter, the Treasurer, Animal Control Officer or Deputy may submit the citation to the District Court for enforcement, where the Court may also award court costs and the costs of prosecution.

300.1.11.5 Contested Violations: If a person notifies the Treasurer of his or her intention to contest the municipal civil infraction, the Treasurer shall forward the citation to the District Court for enforcement and notify the officer who issued the citation.

History

Enacted: May 22, 2018

Original Ordinance Number: 18-1

Codified: April 9, 2019

Amended:

Article 4 - County Operations Ordinances

400.1.1 - Smoking Regulations on or within County Property

Smoking Regulations on or within County Property

400.1.1.1 Purpose: The intent of this Ordinance is to eliminate the health hazards of smoking to all individuals while working in or using buildings owned or leased by Ottawa County. The adverse health effects of smoking to smokers and of so-called “secondary” or “passive” smoke to non-smokers are well documented by the medical community. Such adverse health effects threaten the general health and well-being of individuals, increase health care and insurance costs to the County, and decrease worker attendance and productivity. The general irritation produced by secondary smoke causes frustration among workers and users of county buildings and generally interferes with the quality of life therein. The smoking ban established in this Ordinance will eliminate the irritating and adverse effects of smoking thereby promoting productivity, health, and the quality of life within county buildings, as well as lowering health care and insurance costs.

400.1.1.2 Smoking Prohibition: Smoking is prohibited in all buildings and vehicles owned by Ottawa County. As used in this Ordinance, “ownership” shall be defined as any building or vehicle in which Ottawa County has an interest by title or deed. Any person smoking in County owned building or vehicle shall be subject to a fine in an amount up to \$250.

400.1.1.3 Residential Facilities and Jail: The smoking prohibition in this Ordinance shall apply to all county owned residential facilities, including but not limited to the jail, any work release facility, and residential group homes. All jail inmates and residents upon their admittance shall be screened to determine whether they smoke. All inmates and residents shall be given a copy of this Ordinance and access to a smoking withdrawal program(s) to be designated by the Sheriff and Ottawa County Board of Commissioners. An inmate or resident who smokes shall be allowed to smoke in a designated area only if a physician or psychiatrist certifies in writing that smoking is a medical necessity for the inmate or resident.

400.1.1.4 Notice and Posting: The smoking prohibition section of this Ordinance shall be posted by the Ottawa County Clerk/Register at all public entrances to all buildings owned or leased by Ottawa County. The absence of a posting, however, shall not bar enforcement of this Ordinance.

400.1.1.5 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: December 12, 1989

Original Ordinance Number: 1989-2

Codified: April 9, 2019

Amended:

Article 4 - County Operation Ordinances
400.1.2 - County Parking Lot Ordinance

County Parking Lot Ordinance

An ordinance to establish rules and regulations designed to promote the proper and effective use of parking lots owned by the County of Ottawa.

1. Authority and Purpose: MCL §46.11(j) empowers the Board of Commissioners of the County of Ottawa (“Board) to promulgate ordinances affecting county operations, and the Board has determined that it is in the best interests of the citizens of Ottawa County to adopt an ordinance governing the proper use of County-owned parking lots.

2. Title: This Ordinance may be known and cited as the "County Parking Lot Ordinance of Ottawa County, Michigan.”

3. Definitions: Words used in the present tense shall include the future; the singular number shall include the plural; the word "shall" is mandatory; the word "may" is permissive. For purposes of this Ordinance, certain terms and words are hereby defined:

- a) “County Parking Area” means a gravel or paved parking lot at any Ottawa County park, natural area, courthouse, or county owned or leased building, which is physically marked by at least one sign indicating that it is subject to this County Parking Lot Ordinance of Ottawa County, Michigan.
- b) “Employee permit” means an identifying instrument or permit that is issued by the County, which allows a vehicle to park in the employee parking area(s).
- c) “Motor Vehicle” means any vehicle, which is self-propelled.
- d) “Overnight parking” means parking after 11 p.m. and before 6 a.m.
- e) “Owner” means a person who holds the legal title of a vehicle.
- f) “Park or Parking” means the stopping or standing of an attended or unattended motor vehicle.
- g) “Person” means every natural person, firm, co-partnership, association, or corporation.
- h) “Person involved with court activities” means any witness, observer or party who physically appears or is scheduled to appear in court. “Court activity” is defined as an activity, which requires an appearance before a judge, magistrate or court-appointed neutral party.
- i) “Person involved with county activities” means any person who is attending a county park, to conduct business with a county office during normal business

Article 4 - County Operation Ordinances
400.1.2 - County Parking Lot Ordinance

hours or a county-sponsored event or meeting.

- j) “Special permit” means an identifying instrument, placard, etc. authorized and issued by the Facilities Director to allow vehicles to park for specified durations in a county parking area.

4. Parking Restrictions:

- a) Ottawa County employees and employees of the 20th Circuit Court, 58th District Court and Ottawa County Probate Court and/or any other funding unit of the County shall display employee parking permits in their motor vehicles if and when such employee permits are issued by the Ottawa County Facilities Director. In any event, such employees are prohibited from parking in County parking areas reserved for persons involved with court or county activities.
- b) Unless a special permit has been issued by the Ottawa County Facilities Director and is displayed in the vehicle or an employee is working on county or court business, no person shall park a vehicle overnight in any County parking area.
- c) No person shall park a motor vehicle in a designated handicapped parking space unless the motor vehicle displays a current state issued handicapped permit.
- d) No person shall park a motor vehicle in a County park that is closed.
- e) No person shall park a motor vehicle in space(s) designated as a loading zone except for the purpose of delivery or pick-up of quantities of materials. Any person who parks a motor vehicle in the designated loading zone space(s) shall be limited to thirty (30) minutes.
- f) No person shall park a motor vehicle in space(s) designated as limited time parking space for a period that exceeds the posted time.
- g) No person shall sell any food item or merchandise from any County Parking Area unless pursuant to a special permit.
- h) No person shall park in a County Parking Area unless that person is a county or court employee or is a person involved with court or county activities or pursuant to an event that is approved in a writing signed by the Ottawa County

Article 4 - County Operation Ordinances
400.1.2 - County Parking Lot Ordinance

Administrator or Ottawa County Facilities Director.

- 5. Towing and Impoundment** may occur in any of the following circumstances:
- a) The owner of a motor vehicle does not park within a clearly marked parking space.
 - b) The owner of a motor vehicle has blocked access to another parking space.
 - c) The motor vehicle is unmoved and/or unattended for over three (3) days.
 - d) The motor vehicle is blocking the entrance to a County Parking Area or is otherwise impairing the use of the County Parking Area, park, courthouse or county building.
- 6. Enforcement and Remedies.**
- a) *Administration.* The Ottawa County Facilities Director under the direction of the Ottawa County Administrator shall administer this Ordinance, and may request assistance from the Sheriff's Office and Prosecutor.
 - b) *Appearance Ticket.* If the Ottawa County Sheriff or deputy determines that there is probable cause that this Ordinance has been violated, they are authorized to issue and serve an Appearance Ticket upon a person or entity violating this Ordinance. The Appearance Ticket shall direct the recipient to appear in the appropriate District Court within Ottawa County on a specified date to respond to the alleged violation.
 - c) *Civil and Criminal Penalties.* Enforcement of this Ordinance may be accomplished by civil action and/or criminal prosecution, along with any other remedies provided by law. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished by imprisonment in the County jail for not more than ninety (90) days, or by fine of not more than five hundred dollars (\$500) per occurrence and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of this Ordinance nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance is hereby declared a nuisance *per se*.

Article 4 - County Operation Ordinances
400.1.2 - County Parking Lot Ordinance

- d) *Occurrences.* Each day that a person is responsible for parking in violation of this Ordinance shall be a separate occurrence subject to a \$500 fine.
- e) *Resolution.* The County Administrator shall have the authority to absolve, resolve or settle any alleged infraction of this Ordinance in his or her discretion, which shall not be abused.

7. Severability and modification: The Ordinance and the various articles, sections and clauses thereof, are hereby declared to be severable. In any part, sentence, paragraph, section, clause or work is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions of applications of this Ordinance, which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the Court to be inoperable.

History

Enacted: June 25, 2019

Original Ordinance Number: 400.1.2

Codified: June 25, 2019

Amended:

Effective: June 25, 2019

Article 4 - County Operations Ordinances

400.2.1- Municipal Infractions Bureau

Municipal Infractions Bureau

An ordinance to establish a Municipal Civil Infractions Bureau within the County of Ottawa to deal with civil infraction violations of Ottawa County ordinances, as authorized by Act 12 of the Public Acts of 1994, and providing for the effective date of this Ordinance.

400.2.1.1 **Purpose:** The Board of Commissioners of the County of Ottawa (“the Board of Commissioners”) has determined that it is in the best interests of the citizens of the County to create a Municipal Civil Infractions Bureau as authorized by Act 12 of the Public Acts of 1994, so that the County may establish a system of municipal civil infractions for the violation of certain County ordinances.

400.2.1.2 **Establishment of Civil Infractions Bureau:** The Ottawa County Treasurer’s Office within Ottawa County shall be established as the Civil Infractions Bureau for the violation of those County ordinances which are established as municipal civil infractions. Municipal civil infractions shall be processed by the Civil Infractions Bureau as provided for in Act 12 of the Public Acts of 1994, as amended.

400.2.1.3 **Conflict with Criminal Laws:** Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.2.1.4 **Severability:** The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: September 23, 1994

Original Ordinance Number: 94-1

Codified: April 9, 2019

Amended:

Effective:

Article 4 - County Operations Ordinances

400.2.2 - Investigating Alcohol and Substance Abuse Vehicle Operation

Investigating Alcohol and Substance Abuse Vehicle Operation

An ordinance requiring the payment of costs incurred by the County of Ottawa in making a Sheriff's Response to vehicle accidents and/or arrests involving drivers who were operating under the influence of alcoholic liquors and/or controlled substances, providing a manner for the collection of such costs, and providing for the effective date of this Ordinance.

400.2.2.1 Purpose: The Board of Commissioners of the County of Ottawa ("the Board of Commissioners") has determined that a significant number of traffic arrests and traffic accidents in the County of Ottawa involve drivers who were operating a vehicle while under the influence of alcoholic liquors and/or a controlled substance, or who were operating a vehicle while their ability to operate that vehicle was impaired by the consumption of alcoholic liquors and/or a controlled substance. In addition, the Board of Commissioners finds that a disproportionate number of serious traffic accidents involve drivers who were operating a vehicle while under the influence of alcoholic liquors and/or a controlled substance, or who were operating a vehicle while their ability to operate that vehicle was impaired by the consumption of alcoholic liquors and/or a controlled substance, and that there is a great likelihood of personal injury and property damage in such accidents. As a result, a greater operational and financial burden is placed upon the Sheriff's Office of the County of Ottawa by persons who are operating a vehicle while under the influence of alcoholic liquors and/or a controlled substance, or who were operating a vehicle while their ability to operate that vehicle was impaired by the consumption of alcoholic liquors and/or a controlled substance.

400.2.2.2 Definitions: The following words and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them:

- a) Sheriff's Response shall mean:
 - i. The provision of police services by the Sheriff's office for an accident involving a vehicle, where one or more of the driver's were operating a vehicle while under the influence of alcoholic liquors or any controlled substance or the combined influence of alcoholic liquors and any controlled substance, or;
 - ii. The making of a traffic stop and arrest by a sheriff's deputy when the driver was operating a vehicle under the influence of alcoholic liquors or any controlled substance, or the combined influences or alcoholic liquors and any controlled substance.
- b) Expenses of a Sheriff's Response shall include the salaries or wages, including overtime pay, or law enforcement personnel associated with a Sheriff's Response, including arresting an individual, transporting an individual after arrest, processing the person after arrest, preparing reports on the arrest, reviewing reports on the incident and arrest, investigating the incident, and collecting and analyzing evidence, including the administration, provision and analysis of any chemical

Article 4 - County Operations Ordinances

400.2.2 - Investigating Alcohol and Substance Abuse Vehicle Operation

tests to determined blood alcohol content or the presence of a controlled substance, and other similar expenses.

- c) Cognate Offense: Whenever the term “Cognate Offense” is used in this Ordinance, it shall mean:
 - i. any offense charging a second or subsequent violation of MCL 257.625(1) or (2); MSA 9.2325(1) or (2); or a local ordinance corresponding thereto, contrary to MCL 257.625(5) or (6); MSA 9.2225(5) or (6), or;
 - ii. felonious driving, negligent homicide, or manslaughter resulting from the operation of a vehicle while the driver is alleged to have been impaired by or under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or to have had a blood alcohol content of 0.07% or more by weight of alcohol.
- d) Controlled Substance: Whenever the term “Controlled Substance” is used in this Ordinance, it shall have the same meaning given to it under Article 7 of the Michigan Public Health Code, MCL 333.1101 et seq., MSA 14.15(1101) et seq., as amended.
- e) Alcoholic Liquor: Whenever the term “Alcoholic Liquor” is used in this Ordinance, it shall have the same meaning given to it under Section 2 of the Michigan Liquor Control Act, MCL 436.2, MSA 18.972.
- f) Operating a vehicle while under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and/or a controlled substance, when used in this Ordinance, shall have the same meaning ascribed to it in Section 625(1) of the Michigan Vehicle Code, MCL 257.625(1), MSA 9.2325(1).
- g) Operating a vehicle while having an unlawful blood alcohol level, when used in this Ordinance, shall have the same meaning ascribed to it in Section 625(2) of the Michigan Vehicle Code, MCL 257.625(2), MSA 9.2325(2).
- h) Operating a vehicle while visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance, when used in this Ordinance, shall have the same meaning ascribed to it in Section 625(b) of the Michigan Vehicle Code, MCL 257.625(b), MSA 9.2325(2).

400.2.2.3 Liability for Expense of an Emergency Response

- a) Person Responsible: Any person who, while under the influence of an alcoholic liquor or any controlled substance or the combined influence of an alcoholic liquor and any controlled substance, operates

Article 4 - County Operations Ordinances

400.2.2 - Investigating Alcohol and Substance Abuse Vehicle Operation

a vehicle which results in a Sheriff's Response as defined in this Ordinance shall be responsible and/or liable for the expenses of the Sheriff's Response.

- b) Presumption: For the purpose of this Ordinance, a person is under the influence of an alcoholic liquor or controlled substance, or the combined influence of an alcoholic liquor and any controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that person was operating a vehicle while under the influence of an alcoholic liquor if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of seven on hundredths of one percent (0.07%). Conviction after trial or by plea of an offense of:
- i. operating a vehicle while under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance; or
 - ii. operating a vehicle while visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance; or
 - iii. operating a vehicle while having an unlawful blood alcohol level; or
 - iv. a cognate offense;

shall also be presumptive proof that a person is liable for the expenses incurred as a result of a Sheriff's Response.

- c) Charge Against Person: The expenses incurred by the County as a result of a Sheriff's Response shall be charged to the person liable for the expenses under the terms of this Ordinance. The charge constitutes a debt of that person and is collectible by the County in the same manner as in the case of an obligation under a contract, expressed or implied.
- d) Cost Recovery Schedule: The Board of Commissioners shall, by resolution, adopt a schedule of costs specifying the expenses associated with a Sheriff's Response. This schedule shall be available to the public from either the County Clerk/Register or the Sheriff or his/her designee. The schedule adopted by the Board of Commissioners may be a flat fee based upon a study of the average of costs sustained in making a Sheriff's Response.

Article 4 - County Operations Ordinances

400.2.2 - Investigating Alcohol and Substance Abuse Vehicle Operation

- e) Billing: The Sheriff, or his/her designee, may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for a Sheriff's Response, submit a bill for the costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment in thirty (30) days from the date of mailing personal service.
- f) Failure to Pay; Procedure to Recover Costs: Any failure by the person described in this Ordinance as liable for the expense of a Sheriff's Response, to pay the bill within thirty (30) days of service shall be considered a default. In case of default, the County of Ottawa may commence a civil suit to recover the expenses and any costs allowed by law, or may contract with a collection agency to recover said expenses and costs in the name of the County of Ottawa.

400.2.2.4 Conflict with Criminal Laws: Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.2.2.5 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: September 10, 1991

Original Ordinance Number: 91-1

Codified: April 9, 2019

Amended:

Article 4 - County Operations Ordinances

400.2.3 - Prosecution Costs

Prosecution Costs

An ordinance requiring the payment of costs incurred by the County of Ottawa in prosecuting persons convicted of certain offenses, as authorized by Act 372 of the Public Acts of 2000, as amended, MCL 769.1f et seq., providing for the manner of collection of such costs, and providing for the effective date of this Ordinance.

400.2.3.1 Purpose: The Board of Commissioners of the County of Ottawa, has determined that it is in the best interests of the citizens of Ottawa County to provide for the recovery of costs associated with the prosecution of certain offenses by the Ottawa County Prosecutor's Office, as permitted by Act 372 of the Public Acts of 2000, as amended, MCL 769.1f et seq.

400.2.3.2 Definitions: The term "cost of prosecution" shall mean the salaries, wages, or other compensation, including but not limited to, overtime pay of personnel of the Ottawa County Prosecutor's Office for the time spent investigating and prosecuting the crime or crimes resulting in conviction, and the actual costs and expenses incurred by the Ottawa County Prosecutor's Office in the prosecution of a case.

400.2.3.3 Liability for Costs of Prosecution for Certain Specified Offenses:

- a) Following conviction of any of the following offenses, the person convicted shall reimburse the County of Ottawa for the expenses of prosecuting that person, as provided in this section:
 - i. A violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or of a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.
 - ii. Felonious driving, negligent homicide, manslaughter, or murder, or attempted felonious driving, negligent homicide, manslaughter, or murder, resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

Article 4 - County Operations Ordinances

400.2.3 - Prosecution Costs

- iii. A violation or attempted violation of section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127.
 - iv. A violation or attempted violation of section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135.
 - v. A violation or attempted violation of section 185 of the aeronautics code of the State of Michigan, 1945 PA 327, MCL 259.185.
 - vi. A violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176.
 - vii. A violation or attempted violation of section 353 or 355 of the railroad code of 1993, 1993 PA 354, MCL 462.353 and 462.355.
 - viii. A violation or attempted violation of chapter XXXIII or section 327, 327a, 328, or 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.411a.
 - ix. A finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.
- b) The expenses for which reimbursement may be obtained under this Ordinance include all of the salaries, wages, or other compensation, including but not limited to, overtime pay of prosecution personnel for time spent investigation and prosecuting the crime or crimes resulting in conviction, and the actual costs and expenses incurred by the Ottawa County Prosecutor's Office in the prosecution of a case.

Article 4 - County Operations Ordinances

400.2.3 - Prosecution Costs

400.2.3.4 Imposition of Costs by Court: Nothing contained herein shall prohibit or restrict the Ottawa County Circuit Court, the Ottawa County District Court, or the Ottawa County Juvenile Court from imposing the costs of prosecution as part of a sentence following conviction of any of the offenses listed in Section 3, as authorized by MCL 769.1f(1), provided, however, that the County of Ottawa shall not be fully reimbursed more than once for the expenses incurred in the prosecution of an offense.

400.2.3.5 Procedures for Determination and Recover of Costs: The costs of prosecution for the offenses listed in Section 3 shall be determined and recovered in the following manner:

- a) Charge Against Person: The expenses incurred by the County as a result of a prosecution for an offense set forth in Section 3 charged to the person liable for the expenses under the terms of this Ordinance. The charge constitutes a debt of that person and is collectible by the County in the same manner as in the case of an obligation under a contract, expressed or implied.
- b) Cost Recovery Schedule: The Board of Commissioners may, by resolution, adopt a schedule of costs specifying the expenses associated with a prosecution of an offense set forth in Section 3, or may recover actual costs. Any schedule adopted pursuant to this section shall be available to the public from either the Ottawa County Clerk or the Ottawa County Prosecutor or his/her designee. The schedule adopted by the Ottawa County Board of Commissioners may be a flat fee based upon a study of the average of costs sustained in making a prosecution for the listed offense.
- c) Billing: The Ottawa County Prosecutor, or his/her designee, may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for a prosecution and conviction, submit a bill for the costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment in thirty (30) days from the date of mailing or personal service.
- d) Failure to Pay; Procedure to Recover Costs: Any failure by the person described in this Ordinance as liable for the expense of a prosecution for an offense listed in Section 3, to pay the bill within thirty (30) days of service shall be considered a default. In case of default, the County of Ottawa may commence a civil suit to recover the expenses and any costs allowed by law, or may

Article 4 - County Operations Ordinances

400.2.3 - Prosecution Costs

contract with a collection agency to recover said expenses and costs in the name of the County of Ottawa.

400.2.3.6 Coordination of Collection Efforts: If recovery of the costs of prosecution are required as part of a criminal sentence, the Ottawa County Accounting Department shall work with the relevant court to coordinate recovery of the cost of prosecution.

400.2.3.7 Conflict with Criminal Laws: Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.2.3.8 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: January 28, 2003

Original Ordinance Number: 03-1

Codified: April 9, 2019

Amended:

Article 4 - County Operations Ordinances
400.3.1 - Rules and Regulations in Parks

Rules and Regulations in Parks

An ordinance to establish rules and regulations for public parks and park facilities under the jurisdiction of the Ottawa County Parks and Recreation Commission, to establish violations of those rules and regulations as municipal civil infraction violations, to establish penalties therefore, and to provide for the enforcement thereof.

400.3.1.1 Purpose: The purpose of this Ordinance is to establish rules and regulations for public parks and park facilities under the jurisdiction of the Ottawa County Board of Commissioners and the Ottawa County Parks and Recreation Commission, as permitted by MCLA 46.11, as amended; to further provide that violations of such rules and regulations shall be municipal civil infractions, as provided for by MCLA 46.11(m), as amended; to provide civil infraction penalties for the violation thereof; and to further authorize the enforcement of said ordinance by employees of the Ottawa County Parks and Recreation Commission and by deputies of the Ottawa County Sheriff's Office or other law enforcement officers.

400.3.1.2 Rules and Regulations: The Ottawa County Board of Commissioners adopts the following rules and regulations for the use, protection, regulation and control of public parks and park facilities owned and operated by Ottawa County.

400.3.1.3 Definitions

- a. "Commission" shall mean the Ottawa County Parks and Recreation Commission.
- b. "Commission Park Property" shall mean all lands, waters, and property administered by the Ottawa County Parks and Recreation Commission as park areas.
- c. "Agent" shall mean the Parks and Recreation Director, Coordinator of Maintenance and Operations, or Parks Manager.
- d. "Designee" shall mean Parks Supervisors or other Commission staff as designated by the Commission, Director, Coordinator of Maintenance and Operations, or Parks Manager.
- e. "Person" shall mean individuals, male or female, singular or plural, or any group or gathering of individuals.
- f. "Camping" shall mean the establishment of a lodging or sleeping site for a Person on the ground or in any other manner, or in any sleeping bag, tent, hammock, trailer, vehicle camper, motor vehicle, boat, or in any other conveyance erected, parked, or placed on Commission Park Property for overnight or day use.

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- g. "Written Permission" shall mean a park permit, a written note, email, or letter signed by the Chairperson of the Commission or its Agent. Written permission for an exception to a rule will be issued in special circumstances or for the benefit of the Commission or the parks in general only.
- h. "Posting" shall mean the display of a sign or other device which is of size, shape, and wording as to convey a clear message to reasonable people.

400.3.1.4 Park Hours and Public Use

- a) No person shall:
 - i. Enter a Commission Park Property except during park hours unless prior permission is obtained from the Commission or its Agent. Park hours are 7:00 a.m. - 10:00 p.m. from March 1 through October 15; 7:00 a.m. - 8:00 p.m. from October 16 through the last day of February, or as posted.
 - ii. Willfully remain on Commission Park Property outside of park hours unless prior written permission is obtained from the Commission or its Agent.
 - iii. Re-enter Commission Park Property once expelled for reason of rule violation for a period of time determined by the Commission or its Agent.
 - iv. Enter or use a County Park or portion thereof which has been closed by the Commission or its Agent and posted as such.
 - v. Any person may use specific areas or facilities within Commission Park Property to the exclusion of others by making application per established Commission procedures and being granted a permit by the Commission or its Agent.

400.3.1.5 Fees and Charges

- a) No person shall:
 - i. Use any facility, land, area, or service for which a fee or charge has been established by the Commission without payment of such fee or charge per Commission procedures unless prior written permission has been obtained.
 - ii. Fail to display or affix a valid permit in the manner established by the Commission when entering or using a Commission Park Property requiring such a permit.

400.3.1.6 Prohibited Activities

Article 4 - County Operations Ordinances
400.3.1 - Rules and Regulations in Parks

- a) No person, while on Commission Park Property, shall:
- i. Deposit or abandon any garbage, refuse, trash, waste, or other obnoxious materials except in receptacles specifically provided for such purposes.
 - ii. Deposit or abandon in any way, any garbage, refuse, trash, waste, or other obnoxious materials originating outside the Commission Park Property.
 - iii. Engage in organized activities such as contests, shows, exhibitions; organized sporting or musical events, children's day camp, parades, or any other activity to the exclusion of others, without prior written consent of the Commission or its Agent.
 - iv. Use a park area, structure, play area, or amenity for a use other than its intended or designed use.
 - v. Conduct any activity, including an authorized use, in any manner that unduly threatens the safety of any individual or threatens to damage or harm Commission Park Property or the natural resources therein.
 - vi. Occupy or use a reserved facility when that facility is reserved by another person per established Commission procedures.
 - vii. Hinder, interrupt, or interfere with any authorized use or any use for which a permit has been granted, including a permit that allows the use of Commission Park Property to the exclusion of others.
 - viii. Build fires except in grills, fireplaces, fire rings, or other areas specifically provided and identified for that purpose.
 - ix. Build a fire in a pedestal grill for any purpose other than cooking or use any fuel other than charcoal and lighter fluid in said grill.
 - x. Engage in the activity of Camping, unless prior written permission is obtained from the Commission or its Agent.
 - xi. Peddle or solicit business of any nature whatever; distribute handbills or other advertising matter; post unauthorized signs on any lands, waters, structures, or other Commission Park Property; or use Commission Park Property for the purpose of commercial operations unless prior written permission is obtained from the Commission or its Agent.
 - xii. Make use of any sound amplification device, loudspeakers, audio devices, or car stereos which produce sound at a level which can be heard clearly

Article 4 - County Operations Ordinances
400.3.1 - Rules and Regulations in Parks

- 20 feet from the source, bothers or annoys other park users, park neighbors, or in any other way disturbs the peace and order of a park area unless prior written permission is obtained from the Commission or its Agent as a part of or separately from a facility reservation.
- xiii. Possess or discharge fireworks, unless prior written permission is obtained from the Commission or its Agent.
 - xiv. Swim or wade in any lake, pond, or watercourse except to retrieve one's property or at such times and places provided by and designated for such purpose by the Commission.
 - xv. Be allowed to bring any glass bottle or container into a swimming beach or sunbathing area.
 - xvi. Fish from a swimming beach or be in possession of any fishing hooks or tackle while in a designated swimming beach area.
 - xvii. Trespass onto adjacent private property.
 - xviii. Smoke or use a tobacco product, e-cigarette, or similar device or substance in any beach area, including sand areas, grass areas, decks, overlooks and other structures; or adjoining areas, as designated by signing.
 - xix. Dispose of smoking waste or tobacco product waste in any beach area, including sand areas, grass areas, decks, overlooks, and other structures; or adjoining areas, as designated by signing.
 - xx. Be in possession of paint or a paint container unless also in possession of a canvas, or other related painting support media, unless said person is a Commission Agent or Designee working on official business.
 - xxi. Hang or use a hammock in any manner that could cause damage to a tree, off-trail area, or manmade structure, or in areas where the trail is either boardwalk or stairs. Hammock may be hung using wide straps on trees over 6 inches in diameter within 10 feet of an established natural surface, gravel, or asphalt trail only.
 - xxii. Hang or use a slack line, tight rope, or clothes line unless prior written permission is obtained from the Commission or its Designee.
 - xxiii. Erect a tent or similar structure unless said structure is less than 150 ft², on a beach, and open on at least one side; OR in a designated camping area; OR with written permission as part of or separately from a facility reservation.

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- xxiv. Engage in the activities of sledding, skating, skiing, or other similar activities except in areas designated by the Commission.

400.3.1.7 Public Conduct

- a) No person, while on Commission Park Property, shall:
 - i. Commit, make or engage in noisy, boisterous, disorderly, lewd, lascivious, or indecent conduct
 - ii. In any manner disturb the peace and quiet or good order of a park area; disturb another person or park neighbor.
 - iii. Enter into a restroom intended for the opposite gender, or enter into or remain in any restroom or on any commission property for the purpose of committing any sexual act.
 - iv. Be present on any Commission Park Property with completely or partially exposed or visible genitals, pubic region, buttock, or completely exposed female breast.
 - v. Be allowed to remain on Commission Park Property with a blood alcohol level that exceeds the legal limit; or when under the influence of illegal drugs or controlled substances.
 - vi. Be allowed to conduct or participate in any form of gambling or games of chance.
 - vii. Resist, obstruct, be abusive, or address in a profane or obscene manner any Commission Agent or Designee.
 - viii. Allow any Person under eight years of age to use, enter, or be in a playground or swimming beach area without the supervision of an adult.
 - ix. Travel on paths, trails, driveways, or other areas on a horse, bicycle, or any other conveyance at a speed that endangers any park visitor or may cause damage to Commission Park Property.

400.3.1.8 Alcoholic Beverages

- a) No person, while on Commission Park Property, shall possess any alcoholic beverage of any kind except at specific locations and at specific times by making application per established Commission procedures; and being granted a permit by the Commission or its Agent.

400.3.1.9 Animals

- a) No person, while on Commission Park Property, shall:

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- i. Bring into, have, or keep any animal other than a dog or horse without prior written permission from the Commission or its designee.
- ii. Bring into, have, or keep any dog in an area which has been designated or signed to prohibit dogs except for disability service dogs or on duty Police K9's.
- iii. Bring into, have, or keep any dog not on a physical leash ten feet or less in length (unless within a designated off-leash area or dog park) and under the immediate control of a competent person who shall remove and properly dispose of any waste produced by the animal immediately and completely.
- iv. Fail to fully obey the posted rules while at a designated dog park or off-leash area.
- v. Bring onto Commission Park Property or be in possession of any animal that is vicious or dangerous to park visitors or other animals.
- vi. Ride or allow horses or other riding animals, without written permission, except horses used for mounted patrols or on designated bridle trails.
- vii. Pull a cart behind a horse or other animal without written permission, except on the roadway.

400.3.1.10 Preservation of Park Property and Natural Features

- a) No person, while on Commission Park Property, shall:
 - i. Destroy, injure, deface, disturb, remove, or befoul any part of a park area, building, sign, equipment, or other property therein; nor shall any tree, turf, grass, dune grass, flower, shrub, or any other plant, rock, or any other mineral, be removed, injured, or destroyed.
 - ii. Mark, paint, chalk, or in any way leave a permanent or temporary mark on any surface within Commission Park Property, including but not limited to trees, buildings, pavement, steps, railings, or signs unless prior written permission is obtained from the Commission or its Agent.
 - iii. Release animals, pets, or dispose of plants in a Commission Park Property without prior written consent of the Commission or its Agent.
 - iv. Fail to obey the printed or posted rules of a facility reservation whether the renter or attendee at the facility reservation, including but not limited to the prohibitions of moving furniture, use of staples or tacks, and littering, including the use of confetti.

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- v. The use of a metal detector is allowed only on sand beaches, during regular park hours, unless prior written permission is obtained from the Commission or its Agent. Metal detecting is not allowed in portions of beach areas with established vegetation. Holes created as part of the act of metal detecting must be promptly filled in.

400.3.1.11 Hunting, Fishing and Trapping

- a) No person, while on Commission Park Property, shall remove, hunt, trap, wound, kill, molest, or in any other way harm any living thing, unless prior written permission is obtained from the Commission or its Agent.
- b) Hunting is allowed during special archery deer hunting programs and other deer management programs at selected park sites during specific time periods per specific deer hunting program rules and regulations; per State of Michigan DNR laws, and per other applicable County Park rules.
- c) Fishing on Commission Park Property shall be permitted in accordance with Commission guidelines and the laws of the Department of Natural Resources of the State of Michigan in such areas designated by the Commission for such purposes.

400.3.1.12 Firearms and Weapons

- a) No person, while on Commission Park Property, shall:
 - i. Discharge or set off a pistol, rifle, shotgun, slingshot, or any other instrument which discharges a projectile by air, explosion, or any other force except for any deputy sheriff, police officer, or other duly appointed law enforcement officer carrying out the duties and responsibilities of their position or by a person carrying a weapon in accordance with Michigan law and in the legal defense of human life unless prior written permission is obtained from the Commission or its Agent.
 - ii. The possession of firearms shall be permitted on Commission Park Property in accordance with the laws of the State of Michigan.
 - iii. Weapons associated with fishing shall be allowed in park areas and at such times as provided for those activities by the Commission and in accordance with all applicable Federal and State laws and regulations.

400.3.1.13 Motor Vehicles

- a) No person, while on Commission Park Property, shall:

Article 4 - County Operations Ordinances
400.3.1 - Rules and Regulations in Parks

- i. Operate a motor vehicle unless the vehicle is duly authorized and licensed for operation on public roads.
- ii. Operate a motor vehicle except on roads, parking lots, and other areas expressly designed and designated by the Commission for that purpose.
- iii. Operate a motor vehicle in any way which does not give right-of-way to pedestrians, bicyclists and equestrians; or endangers the safety of people or property.
- iv. Park or leave unattended any automobile, truck, bus, motor home, trailer, or any other similar device except in designated parking spaces or spaces assigned by a Commission Designee and during regular park hours.
- v. Park or leave unattended any motor vehicle in a manner that blocks in another parked vehicle; blocks, restricts, or impedes the normal flow of traffic; where parking is prohibited; on or in a turf area, wetland, meadow, prairie, marsh, field woodland; for the purpose of washing or making any repairs or alterations except those of an emergency nature; or in such a way as to occupy more than one provided parking space.
- vi. Use a motor vehicle or any other motorized device to continuously cruise into, out of, or through any area, roadway, or parking lot.
- vii. Exceed 20 mph or posted speed limits, or exceed a reasonable speed for given traffic conditions and special hazards, such as trail crossings, entrances to parking areas, hills, or curves.
- viii. Commit an act of property destruction with a motor vehicle or any other motorized device.
- ix. Operate a snowmobile, off-road vehicle, any motor-driven vehicle or any motorized device in any park area unless specifically designated for such purpose.
- x. Park any vehicle in a Commission administered parking lot or space for a period exceeding the designated time limit as determined by the Commission and identified by posted signs noting the applicable time limitation.
- xi. Park in a space designated for people with disabilities, or the striped aisle adjacent to that space, unless properly displaying a valid disability parking placard or license plate.

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- xii. Fail to obey a traffic control device or the direction of a Commission Designee that is directing traffic.

400.3.1.14 Watercraft

- a) No person, while on Commission Park Property, shall:
 - i. Launch, navigate, or use any boat, canoe, jet ski, sailboard, raft or other similar device upon any lake, pond, or watercourse except at such times and places provided by and designated for such purpose by the Commission.
 - ii. Enter a posted swim area with any boat, canoe, jet ski, sailboard, paddleboard, surfboard, or other similar device.
 - iii. Beach, moor, or store any boat, raft, canoe, jet ski, sailboard, or other similar device outside of regular park hours unless prior written permission is obtained from the Commission or its Agent.

400.3.1.15 Bicycles, Skateboards, Scooters, Roller Skates, Other Devices

- a) No person, while on Commission Park Property shall:
 - i. Use a bicycle, tricycle, or other similar conveyance except upon roadways, parking areas, and designated paths or trails.
 - ii. Use a skateboard, scooter, roller-skates, or similar device except where it is specifically allowed by the Commission.
 - iii. At any time obstruct vehicle or pedestrian traffic into, out of, or through Commission Park Property by the use of a bicycle, skateboard, roller-skates, or similar devices.
 - iv. At any time use a bicycle, skateboard, roller-skates, or similar device in a careless manner which may result in injury to a person or damage to property.

400.3.1.16 Sports, Games, and Hobbies

- a) No person, while on Commission Park Property, shall:
 - i. Engage in any sport, game, or similar activity while on Commission Park Property which unreasonably interferes, annoys, or bothers the use and enjoyment of an area by others.
 - ii. Use or operate any amusement device while on Commission Park Property that would threaten the safety of any person or potentially

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

damage park property; or would interfere, annoy, or bother the use and enjoyment of an area by others.

- iii. Use or operate any remote-controlled airplane, helicopter, drone, car, boat, or similar device unless prior written permission is obtained from the Commission or its Agent.
- iv. Launch, land, operate, or otherwise engage in the use of hot air balloons, parachutes, hang gliders, or other similar conveyances without obtaining prior written permission from the Commission or its Agent.

400.3.1.17 Penalties

- a) Any person who violates the Rules and Regulations of the Ottawa County Parks and Recreation Commission may be expelled from Commission Property and be responsible for municipal civil infraction violations punishable by a municipal civil infraction penalty not to exceed \$100 and costs of prosecution.

400.3.1.18 Enforcement

- a) Notice To Appear.
 - i. Any Ottawa County Sheriff's Deputy, and any Agent or Designee of the Commission is authorized to issue and serve municipal civil infraction citations with respect to municipal civil infraction violations if the Deputy, Agent, or Designee has reasonable cause to believe that a person has committed a municipal civil infraction violation of this Ordinance.
 - ii. Nothing in these rules and regulations shall:
 - iii. Prohibit or hinder any Commission employee, agent, or any peace officer from performing their official duties.
 - iv. Prohibit the Commission, its Agent, or Designee from establishing any emergency rules required to protect the health, welfare, and safety of park visitors; to protect Commission Park Property; or to maintain order.
 - v. Prevent other officers from carrying out their sworn duties within the Commission Park Properties or facilities as defined by the applicable laws of the State of Michigan and the United States or by the ordinances, resolutions, and policies of Ottawa County, Michigan or in accord with any policing agreement approved by the Board.

400.3.1.19 Conflict with Criminal Laws

Article 4 - County Operations Ordinances

400.3.1 - Rules and Regulations in Parks

- a) Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.3.1.20 Severability

- a) The phrases, sentences, sections, and provisions of this Section are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: September 13, 1991

Original Ordinance Number: 94-3

Codified: April 9, 2019

Amended: by Ordinance 07-1 adopted June 26, 2007

Amended: by Ordinance 17-1 adopted on March 14, 2017

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

Open Space Regulation

An ordinance to establish rules and regulations for public open space lands under the jurisdiction of the Ottawa County Parks and Recreation Commission, to establish violations of those rules and regulations as municipal civil infractions, to establish penalties therefore, and to provide for the enforcement thereof.

400.3.2.1 Purpose: The purpose of this Ordinance is to establish rules and regulations for public open space lands under the jurisdiction of the Ottawa County Board of Commissioners and the Ottawa County Parks and Recreation Commission, as permitted by MCLA 46.11, as amended; to further provide that violations of such rules and regulations shall be municipal civil infractions, as provided for by MCLA 46.11(m), as amended; to provide civil infraction penalties for the violation thereof; and to further authorize the enforcement of said ordinance by employees of the Ottawa County Parks and Recreation Commission and by deputies of the Ottawa County Sheriff's Office or other law enforcement officers.

400.3.2.2 Rules and Regulations: The Ottawa County Board of Commissioners adopts the following rules and regulations for the use, protection, regulation, and control of public open space lands owned and operated by Ottawa County.

400.3.2.3 Definitions

- a) "Commission" shall mean the Ottawa County Parks and Recreation Commission.
- b) "Open Space Land" shall mean lands, waters, and property administered by the Ottawa County Parks and Recreation Commission as Open Space areas distinct from lands and facilities designated as County Parks.
- c) "Agent" shall mean the Parks and Recreation Director, Coordinator of Maintenance and Operations, or Parks Manager.
- d) "Designee" shall mean Parks Supervisors or other Commission staff as designated by the Commission, Director, Coordinator of Maintenance and Operations, or Parks Manager.
- e) "Person" shall mean individuals, male or female, singular or plural, or any group or gathering of individuals.
- f) "Camping" shall mean the establishment of a lodging or sleeping site for a Person on the ground or in any other manner, or in any sleeping bag, tent, hammock, trailer, vehicle camper, motor vehicle, boat, or in any other conveyance erected, parked, or placed on Commission Park Property for overnight or day use.
- g) "Written Permission" shall mean a park permit, a written note, email, or letter signed by the Chairperson of the Commission or its Agent. Written permission for an exception to a rule will be issued in special circumstances or for the benefit of the Commission or the parks in general only.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

- h) "Posting" shall mean the display of a sign or other device which is of size, shape, and wording as to convey a clear message to reasonable people.

400.3.2.4 Park Hours and Public Use

- a. No person shall:
 - i. Enter Open Space Land except during permitted hours unless prior written permission is obtained from the Commission or its Agent. Permitted hours are 5:00 a.m. to 10:00 p.m., or as posted.
 - ii. Willfully remain on Open Space Land outside of permitted hours unless prior permission is obtained from the Commission or its Agent.
 - iii. Re-enter Open Space Land once expelled for reason of rule violation for a period of time to be determined by the Commission or its Agent.
 - iv. Enter or use Open Space Land or a portion thereof which has been closed by the Commission and posted as such.
 - v. Any person may use specific areas or facilities within Open Space Land to the exclusion of others by making application per established Commission procedures and being granted a permit by the Commission or its Agent.

400.3.2.5 Fees and Charges

- a) No person shall:
 - i. Use any facility, land, area, or service for which a fee or charge has been established by the Commission without payment of such fee or charge per Commission procedures unless prior written permission has been obtained.
 - ii. Fail to display or affix a valid permit in the manner established by the Commission when entering or using an open space land requiring such a permit.

400.3.2.6 Prohibited Activities

- a) No person, while on Open Space Land, shall:
 - i. Deposit or abandon any garbage, refuse, trash, waste, or other obnoxious materials except in receptacles specifically provided for such purposes.
 - ii. Deposit or abandon in any way, any garbage, refuse, trash, waste, or other obnoxious materials originating outside the Open Space Land.
 - iii. Engage in organized activities such as contests, shows, exhibitions, organized sporting or musical events, ceremonies, children's day camp, parades, or any other activity to the exclusion of others, without prior written consent of the Commission or its Agent.
 - iv. Conduct any activity, including an authorized use, in any manner that unduly threatens the safety of any individual or threatens to damage or harm Open Space Land or the natural resources therein.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

- v. Hinder, interrupt, or interfere with any authorized use, or any use for which a permit has been granted, including a permit that allows the use of Open Space Land to the exclusion of others.
- vi. Occupy or use a reserved facility when that facility is reserved by another person per established Commission procedures.
- vii. Peddle or solicit business of any nature whatever; distribute handbills or other advertising matter; post unauthorized signs on any lands, waters, structures, or other Open Space Lands; or use Open Space Land for the purpose of commercial operations unless prior written permission is obtained from the Commission or its Agent.
- viii. Make use of any sound amplification device, loudspeakers, audio devices, or car stereos which produce sound at a level which can be heard clearly 20 feet from the source, bothers or annoys other open space users, open space neighbors, or in any other way disturbs the peace and order of an open space unless prior written permission is obtained from the Commission or its Agent.
- ix. Build fires except in grills, fireplaces, fire rings or other areas specifically provided and identified for that purpose.
- x. Build a fire in a pedestal grill for any purpose other than cooking or use any fuel other than charcoal and lighter fluid in said grill.
- xi. Engage in the activity of Camping, unless prior written permission is obtained from the Commission or its Agent.
- xii. Possess or discharge fireworks, unless prior written permission is obtained from the Commission or its Agent.
- xiii. Swim or wade in any lake, pond, or watercourse except to retrieve one's property or at such times and places provided by and designated for such purpose by the Commission.
- xiv. Be allowed to bring any glass bottle or container into a swimming beach or sunbathing area.
- xv. Fish from a swimming beach or be in possession of any fishing hooks or tackle while in a designated swimming beach area.
- xvi. Trespass onto adjacent private property.
- xvii. Engage in the activities of sledding, skating, skiing, or other similar activities except in areas designated by the Commission.
- xviii. Be in possession of paint or a paint container unless also in possession of a canvas, or other related painting support media, or said person is a Commission Agent or Designee working on official business.
- xix. Hang or use a hammock in any manner that could cause damage to a tree, off-trail area, or manmade structure, or in areas where the trail is either boardwalk or stairs.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

- xx. Hang or use a slack line, tight rope, or clothes line unless prior written permission is obtained from the Commission or its Designee.
- xxi. Erect a tent or similar structure unless prior written permission is obtained from the Commission or its Designee.

400.3.2.7 Public Conduct

- a) No person, while on Open Space Land, shall:
 - i. Commit, make, or engage in noisy, boisterous, disorderly, lewd, lascivious, or indecent conduct.
 - ii. In any manner disturb the peace and quiet or good order of an Open Space Land area; disturb another person or Open Space Land neighbor.
 - iii. Enter into a restroom intended for the opposite gender, or enter into or remain in any restroom or on any commission property for the purpose of committing any sexual act.
 - iv. Be present on any Open Space Land with completely or partially exposed or visible genitals, pubic region, buttock, or completely exposed female breast.
 - v. Be allowed to conduct or participate in any form of gambling or games of chance.
 - vi. Resist, obstruct, be abusive, or address in a profane or obscene manner a Commission Agent or Designee.
 - vii. Be allowed to remain on Open Space Land with a blood alcohol level that exceeds the legal limit; or when under the influence of illegal drugs or controlled substances.
 - viii. Travel on paths, trails, driveways, or other areas on a horse, bicycle, or any other conveyance at a speed that endangers any park visitor or may cause damage to Open Space Land.

400.3.2.8 Alcoholic Beverages

- a) No person, while on Open Space Land, shall possess any alcoholic beverage of any kind except at specific times and at specific locations by making application per established Commission procedures; and being granted a permit by the Commission or its Agent.

400.3.2.9 Animals

- a) No person, while on Open Space Land, shall:
 - i. Ride or allow horses or other riding animals, without written permission, except on designated bridle trails or areas designated for such purposes.
 - ii. Bring in or allow dogs or other pets in areas that are posted as closed to dogs or other pets except for disability service dogs, on duty Police K9's, and horses used for mounted patrols.
 - iii. Bring onto Open Space Land or be in possession of any animal that is vicious or dangerous to Open Space Land visitors or other animals.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

- iv. Pull a cart behind a horse or other animal without written permission, except on the roadway.

400.3.2.10 Preservation of Open Space Land and Natural Features

- a) No person, while on Open Space Land, shall:
 - i. Destroy, injure, deface, disturb, remove, or befoul any part of an Open Space area, building, sign, equipment, or other property therein; nor shall any tree, turf, grass, dune grass, flower, shrub, or any other plant, rock, or any other mineral be removed, injured, or destroyed.
 - ii. Mark, paint, chalk, or in any way leave a permanent or temporary mark on any surface within the Open Space, including but not limited to trees, buildings, pavement, steps, railings, or signs unless prior written permission is obtained from the Commission or its Agent.
 - iii. Release animals, pets, or dispose of plants on an Open Space Land without prior written consent of the Commission or its Agent.
 - iv. The use of a metal detector is allowed only on sand beaches, during regular open space hours, unless prior written permission is obtained from the Commission or its Agent. Metal detecting is not allowed in portions of beach areas with established vegetation. Holes created as part of the act of metal detecting must be promptly filled in.

400.3.2.11 Hunting, Fishing and Trapping

- a) Commission Open Space Lands shall be open to hunting in accordance with the laws of the Department of Natural Resources of the State of Michigan except when designated by the Commission otherwise. Specific Open Space Lands may be designated as open to permit hunting only, open to archery hunting only, closed to all hunting, or may be designated otherwise.
- b) No person while on an Open Space Land shall be allowed to hunt within ninety (90) feet of the boundary between an Open Space Land and private property.
- c) No person while on Open Space Land shall hunt in or around any area where artificial or natural bait, hay, grain, fruit, nut, salt, chemical, mineral, or other food – including their residues – are used or have been used within the past 30 days as an enticement to lure game or wildlife.
- d) Tree stands and ground blinds (type I only) may be used according to the laws of the Department of Natural Resources of the State of Michigan.
- e) Fishing on Commission Open Space Land shall be permitted in accordance with Commission guidelines and the laws of the Department of Natural Resources of the State of Michigan in such areas designated by the Commission for such purposes.
- f) Trapping is prohibited on Open Space Lands unless prior written permission is obtained from the Commission or its Agent.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

400.3.2.12 Firearms and Weapons

- a) No person, while on Open Space Land, shall:
 - i. Discharge or set off a pistol, rifle, shotgun, slingshot, or any other instrument which discharges a projectile by air, explosion, or any other force, except for the purpose of hunting in accordance with Section 11 of these rules and the laws of the State of Michigan or by any deputy sheriff, police officer, or other duly appointed law enforcement officer carrying out the duties and responsibilities of their position, or by a person carrying a weapon in accordance with Michigan law and in the legal defense of human life unless prior written permission is obtained from the Commission or its Agent.
 - ii. The possession of firearms shall be permitted on Commission Open Space Land in accordance with the laws of the State of Michigan.
 - iii. Weapons associated with fishing shall be allowed in Open Space Land and at such times as provided for those activities by the Commission, and in accordance with all applicable Federal and State laws and regulations.

400.3.2.13 Motor Vehicles

- a) No person, while on Open Space Land, shall:
 - i. Operate a motor vehicle unless the vehicle is duly authorized and licensed for operation on public roads.
 - ii. Operate a motor vehicle except on roads, parking lots, and other areas expressly designed by the Commission for that purpose.
 - iii. Park or leave unattended any motor vehicle except in designated parking spaces and during regular Open Space hours.
 - iv. Operate a motor vehicle in any way which does not give right-of-way to pedestrians, bicyclists, and equestrians; or endangers the safety of people or property.
 - v. Park or leave unattended any motor vehicle which obstructs vehicle or pedestrian traffic into, out of, or within Open Space Land.
 - vi. Park or leave unattended any motor vehicle in a manner that blocks in another parked vehicle; blocks, restricts, or impedes the normal flow of traffic; where parking is prohibited; on or in a turf area, wetland, meadow, prairie, marsh, field woodland; for the purpose of washing or making any repairs or alterations except those of an emergency nature; or in such a way as to occupy more than one provided parking space.
 - vii. Use a motor vehicle or any other motorized device to continuously cruise into, out of, or through any area, roadway or parking lot.
 - viii. Exceed 20 mph or posted speed limits, or exceed a reasonable speed for given traffic conditions and special hazards such as trail crossings, entrances to parking areas, hills, or curves.

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

- ix. Commit an act of property destruction with a motor vehicle or any other motorized device.
- x. Operate a snowmobile, off-road vehicle, any motor-driven vehicle or any motorized device in any area unless specifically designated for such purpose and signed accordingly.
- xi. Park in a spot designated for people with disabilities or the striped aisle adjacent to that spot unless properly displaying a valid disability parking placard or license plate.
- xii. Fail to obey a traffic control device or the direction of staff or volunteers that are directing traffic.

400.3.2.14 Watercraft

- a) No person, while on Open Space Land, shall:
 - i. 14.1a Launch, navigate, or use any boat, canoe, jet ski, sailboard, paddleboard, raft, or other similar device upon any lake, pond, or watercourse except at such times and places provided by and designated for such purpose by the Commission.
 - ii. 14.1b Launch or operate a motorized watercraft in an area designated for non-motorized watercraft only.
 - iii. 14.1c Enter a posted swim area with any boat, canoe, jet ski, sailboard, or other similar device.
 - iv. 14.1d Beach, moor, or store any boat, raft, canoe, jet ski, sailboard, or other similar device outside of regular hours unless prior written permission is obtained from the Commission or its Agent.

400.3.2.15 Bicycles, Skateboards, Scooters, Roller-Skates and Other Devices

- a) No person, while on Open Space Land, shall:
 - i. Use a bicycle, tricycle, or other similar conveyance except upon broadways, parking areas, and designated paths or trails.
 - ii. Use a skateboard, scooter, roller-skates, or similar device except where it is specifically allowed by the Commission.
 - iii. At any time use a bicycle, skateboard, roller-skates, or similar device in a careless manner which may result in injury to a person or damage to property.

400.3.2.16 Sports, Games and Hobbies

- a) No person, while on Open Space Land, shall:
 - i. Engage in any sport, game, or similar activity while on Open Space Land which unreasonably interferes, annoys, or bothers the use and enjoyment of an area by others.
 - ii. Use or operate any amusement device while on Open Space Land that would threaten the safety of any person or potentially damage Open

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

Space Land; or would interfere, annoy, or bother the use and enjoyment of an area by others.

- iii. Use or operate any remote-controlled airplane, helicopter, drone, car, boat, or similar device unless prior written permission is obtained from the Commission or its Agent.
- iv. Launch, land, operate, or otherwise engage in the use of hot air balloons, parachutes, hang gliders, or other similar conveyances without obtaining prior written permission from the Commission or its Agent.

400.3.2.17 Penalties

- a) Any person who violates the Rules and Regulations of the Ottawa County Parks and Recreation Commission may be expelled from Commission Property and be responsible for municipal civil infraction violation punishable by a municipal civil infraction penalty not to exceed \$100.00 and costs of prosecution.

400.3.2.18 Enforcement

- a) Notice to Appear.
 - i. Any Ottawa County Sheriff's Deputy and any Agent or Designee of the Commission is authorized to issue and serve municipal civil infraction citations with respect to municipal civil infraction violations if the Deputy, Agent, or Designee has reasonable cause to believe that a person has committed a municipal civil infraction violation of this Ordinance.
 - ii. Nothing in these rules and regulations shall:
 - iii. Prohibit or hinder any Commission employee or agent or any peace officer from performing their official duties.
 - iv. Prohibit the Commission, its Agent, or Designee from establishing any emergency rules required to protect the health, welfare, and safety of Open Space visitors; to protect Commission Open Space Land; or to maintain order.
 - v. Prevent other officers from carrying out their sworn duties within the Open Space Land or facilities as defined by the applicable laws of the State of Michigan and the United States or by the ordinances, resolutions, and policies of Ottawa County, Michigan or in accord with any policing agreement approved by the Board.

400.3.2.19 Conflict with Criminal Laws: Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.3.2.20 Severability: The phrases, sentences, sections, and provisions of this Section are severable and the finding that any portion hereof is unconstitutional or otherwise

Article 4 - County Operational Ordinances

400.3.2 - Open Space Regulation

unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

History

Enacted: September 23, 2003

Original Ordinance Number: 03-2

Codified: April 9, 2019

Amended: by Ordinance 17-2 on March 14, 2007

Article 4 - County Operations Ordinances

400.4.1 - Planning Commission

Planning Commission

400.4.1.1 Purpose: The intent of this Ordinance is to create the Ottawa County Planning Commission pursuant to MCL 125.101 et seq. (currently, MCL 125.3801 et seq.). The Planning Commission's functions as described herein are deemed necessary to adequately promote, plan and coordinate Ottawa County's economic, social and physical development.

400.4.1.2 Composition and Compensation: The Planning Commission shall consist of nine (9) members. Two (2) members of the Planning Commission must be members of the Ottawa county Board of Commissioners. The County shall make every reasonable effort to ensure that the membership of the County Planning Commission includes one (1) member of a public school board or an administrative employee of a school district, located in whole or in part, within the County's boundaries, pursuant to MCL 125.3815(6). One (1) member must be a current Ottawa County Road Commissioner. The remaining five (5) members shall represent any of the following communities:

- Agriculture
- Commerce
- Education
- Government
- Industry
- Natural Resources
- Public Health
- Recreation
- Transportation

Each appointed member shall serve a three-year term, except that on the first appointment of the Planning Commission membership, two commissioners shall be appointed to a one-year term and two commissioners shall be appointed to a two-year term. The Ottawa County Board of Commissioners reserves the right to remove any member for nonperformance of duty or misconduct upon a public hearing.

Planning Commission members may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties and may be paid per diem as established by the Ottawa County Board of Commissioners; however, in no event may such a per diem be paid at a rate in excess of the per diem paid to members of the Ottawa County Board of Commissioners.

400.4.1.3 Officers; Directors; Meetings; and Records: The Planning Commission must annually elect a chairperson from its membership and appoint a secretary who need not be a member. The Planning Commission chairperson shall be seated on the Ottawa County Parks and Recreation Commission, unless the Planning Commission chairman appoints another member to represent the Planning Commission on the Parks & Recreation Commission.

Article 4 - County Operations Ordinances

400.4.1 - Planning Commission

With the approval of the Ottawa County Board of Commissioners, the Planning Commission may employ a director and other personnel it deems necessary. The Commission and all operations under its authority shall be administered within and through the County's existing fiscal and personnel procedures. Any expenditures or financial commitments must be within appropriations authorized by the Ottawa County Board of Commissioners. Likewise, contracts for goods or services must be approved by the Ottawa county Board of Commissioners and any personnel employed will be County employees.

The Planning Commission, pursuant to MCL 125.3821, must hold at least four (4) regular meetings each and may hold as many other meetings as it deems necessary. It must adopt and rules for the transaction of its business and keep at record of its

400.4.1.4 Duties: The Planning Commission shall exercise the mandatory duties of a county planning commission as described in MCL 125.3819, MCL 125.3831 and MCL 125.3837. Such mandatory functions will include, but are not limited to creation of an Ottawa County Development Plan to accommodate and promote the County economic, social and physical growth.

In addition to the duties described or referenced about, the Planning Commission shall serve, pursuant to MCL 125.104 as the coordinating agency for all planning organizations operating within the County and is authorized to serve as a liaison between such organizations and any regional or state planning organization. In addition, the Planning Commission shall serve as a metropolitan county planning commission and shall exercise all of such a commission's rights and responsibilities as described in MCL 125.3837. The Planning Commission is authorized pursuant to MCL 1253837 to perform any and all functions necessary or desirable to secure the financial aid or cooperation of the federal or state governments in carrying out the functions of a county planning commission.

History:

Enacted: August 8, 1989

Original Ordinance Number: 89-1

Codified: April 9, 2019

Amended: By Ordinance 17-3

Effective: May 23, 2017

Article 4 - County Operations Ordinances

400.4.2 - Housing Commission

Housing Commission

400.4.2.1 Statutory Authority: Michigan Counties has been delegated the right to create 5-member county housing commissions. See MCL Section 125.653(3)(d) (“Act”). Pursuant to MCL Section 125.655, the county board of commissioners has the right and responsibility to set restrictions on the authority of the county housing commission.

400.4.2.2 Purpose: The Board of Commissioners of the County of Ottawa (“the Board of Commissioners”) hereby creates the “Ottawa County Housing Commission” (“Housing Commission”). The purpose of the Housing Commission is to take advantage of federal and/or state vouchers that may become available to Ottawa County residents through a created housing commission. The Housing Commission shall have the powers conferred by federal and/or state statute, except for the following:

- a) The Housing Commission shall have no authority to assume debt or issue bonds or notes in its name or the name of Ottawa County, without the formal approval of the Ottawa county Board of Commissioners for each specific debt instrument. In no event, may the Housing Commission incur any liability for the general or other funds of Ottawa County.
- b) The Housing Commission shall have no authority to acquire any interest in real estate, whether by lease, fee or other contract, without the formal approval of the Ottawa county Board of Commissioners for each specific acquisition.
- c) The Housing Commission shall have no authority to employ any personnel or to contract for personnel services, but must instead use Ottawa County employees for all staff services under the direction and control of the Ottawa County Administrator.
- d) The Housing Commission may not operate within any incorporated area within Ottawa County without a contract authorizing such operation with the incorporated unit of government’s legislative body. Such a contract, however, may not confer any authority restricted ty this Ordinance. Moreover, such a contract must

Article 4 - County Operations Ordinances

400.4.2 - Housing Commission

require the Housing Commission to comply with local zoning, unless otherwise agreed to by the local unity's legislative body.

- e) The Ottawa County Board of Commissioners may terminate this Ordinance and the Housing Commission at any time.

400.4.2.3 Commission Appointments:

- a) Pursuant to MCL Section 125.653, the Chairperson of the Ottawa County Board of Commissioners shall perform all of the duties relative to the Housing Commission that are to be performed by the chief administrative officer of a city or village under the Act relative to a local housing commission.
- b) The Chairperson of the Ottawa County Board of Commissioners shall appoint the members of the Housing Commission to 5-year terms, with the first members of the Housing Commission receiving staggered terms.
- c) At the request of the Chairperson, the Ottawa County Board of Commissioners may remove any member of the Housing Commission for any reason.
- d) The Housing Commission may approve bylaws, but such bylaws must be approved the Ottawa County Board of Commissioners and shall not be inconsistent in any way with the terms and conditions of this Ordinance. In the face of any inconsistency between the bylaws and this Ordinance, this Ordinance shall control.

400.4.2.4 Conflict with Criminal Laws: Nothing in this Section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law.

400.4.2.5 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

Article 4 - County Operations Ordinances
400.4.2 - Housing Commission

History

Enacted: November 28, 2006

Original Ordinance Number: 06-2

Codified: April 9, 2019

Amended: