

ARTICLE 14 AMENDMENTS

SECTION 14.01 Initiating amendments

- A. A proposal for an amendment to the text of this Ordinance may be initiated by any person by the filing of a petition meeting the requirement outlined below requesting consideration of the amendment, the application for a text amendment, and either the necessary fees for such text amendment or a copy of the proposed text change with the Zoning Administrator.
1. The petition required above shall be signed by a number of registered electors residing in the Township, equal to at least ten (10) percent of the total votes cast for all candidates for governor in the last general election at which a governor was elected. All signatures shall be collected no more than sixty (60) days prior to the submission of the application for amendment. The petition shall include the proposed text amendment.
- B. Any proposal for an amendment to the Zoning Map (i.e. to rezone a parcel(s)) may be initiated by the owner of that parcel(s) or a person with written permission of the owner. The process is initiated with the filing of the following with the Zoning Administrator:
1. An application for rezoning.
 2. A map at a scale of not less than 1"=50' showing the subject parcel in relation to adjoining parcels of land.
 3. The necessary fees for such zoning change.
 4. A copy of the deed to the property.
 5. A sewer capacity report prepared by the Township Engineer.
- (Amended: Ord. No. 638, 4-4-05; Ord. No. 646, 7-5-05)
- C. Any proposal for an amendment to the Zoning Ordinance text or map may be initiated by the Township Board, Planning Commission or Zoning Board of Appeals, upon filing with the Township Zoning Administrator a resolution duly adopted identifying the proposed amendment.

SECTION 14.02 Procedures

- A. The Township Clerk shall give notice of the time and place of the Planning Commission public hearing at which the amendment will be heard, by publication of a notice in a newspaper of general circulation in the Township.
1. The notice shall be published not less than fifteen (15) prior to the date of the hearing.
 2. The notice shall include:
 - a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the request will be considered

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- d. Indicate when and where written comments will be received concerning the request and the places and times at which the proposed amendment may be examined prior to the meeting.
- B. The Clerk shall give similar notice by mail of the time and place of such hearing to the owner or owners of the property or properties in question as well as all the owners of property within three hundred (300) feet of the parcel as identified in the most recent tax roll of the Township and to the occupants of all structures within 300 feet of the property, not less than fifteen (15) days before the hearing. If the portion of the general common area of a condominium falls within the three hundred (300) feet radius notice will be sent to the condominium association. Notice shall also be given in similar fashion to each public utility company and to each railroad company owning or operating any public utility or railroad within zoning districts affected that registers its name and mailing address with the Township for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
- (Amended: Ord. No. 668, 7-24-06)
- C. The Township shall also give notice to the Planning Commission of any adjacent City or Township within three hundred (300) feet of the proposed rezoning.
- D. At the public hearing where the proposed zoning ordinance amendment is considered, the Planning Commission shall provide the public and the applicant with a reasonable opportunity to comment on the proposal.
- E. Following the public hearing, the Planning Commission shall consider the request. At the meeting the Planning Commission may recommend approval, denial or postpone the request for further study. In making a recommendation on the proposed amendment, the Planning Commission shall consider the following:
1. In the case of a proposal to amend the zoning ordinance text the Planning Commission must find:
 - a. The change is necessary to clarify a provision of the ordinance, or
 - b. The change is necessary to correct a mistake in the ordinance, or
 - c. The change is necessary to implement a goal or policy of the Township Land Use Plan, or
 - d. The change is necessary to improve administration of the ordinance or to better serve the community.
 - e. In addition to one (1) or more of the above findings, the Planning Commission must determine that the requested amendment is in compliance with the Township Land Use Plan or that a mistake in the plan, or changes in conditions or township policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.

2. In the case of a proposed zoning map amendment (rezoning) the Planning Commission must find one of the following:
 - a. The requested amendment is in compliance with the Township Land Use Plan or that a mistake in the plan, or changes in conditions or township policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
 - b. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Land Use Plan.
3. In addition to the findings required in paragraph 2 above, the Planning Commission must find that there is adequate sewer capacity for the uses that would be permitted as a result of the rezoning, based on a sewer capacity report.

(Amended: Ord. No. 638, 4-4-05)

- F. The Planning Commission shall provide a record of the public hearing concerning the proposed amendment, a written recommendation, and reasons for the recommendation, to the Township Board for their consideration.
- G. Following receipt of the Planning Commissions report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner in the Township, who by certified mail addressed to the Township Clerk indicates a desire to be heard on the matter. In such a case the Township Board may request the Township Planning Commission to attend the meeting.
- H. At the next regularly scheduled Township Board meeting following receipt of the Planning Commissions report, the Township Board shall hold a first reading of the proposed amendment and shall offer the public an opportunity to comment on the proposal. The Township Board shall then schedule the proposed amendment for a second reading.
- I. At the second reading of the proposed zoning ordinance amendment the Township Board may take the following actions on a zoning amendment.
 1. Approve the request by a majority vote of the Township Board's membership.
 2. Deny the request.
 3. Hold a public hearing on the matter before the decision. Notice of a public hearing held by the Township Board, shall be published in a newspaper of general circulation in the Township, between five (5) and fifteen (15) days prior to the meeting. The Planning Commission shall be requested to attend any public hearings.
 4. Consider changes to the proposed amendment.
- J. If the Township Board desires to make any changes to the amendment as submitted by the Township Planning Commission's, it shall refer the matter back to the Planning Commission

for a second report within a time period specified by the Township Board. The Planning Commission reviews the proposed changes and may choose to agree with the change, keep the original recommendation or propose a different change.

- K. Following adoption of the zoning amendment, one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days of adoption. The notice shall include:
1. A summary of the regulatory effect of the amendment or the actual text of the amendment.
 2. The effective date of the ordinance. This date may be as few as seven (7) days after the publication of the ordinance.
 3. The place and time where a copy of the ordinance may be purchased or inspected.
- L. If within seven (7) days after publication of an amendment to the ordinance, the Township Board is presented with a notice of intent to file a petition opposing the amendment from a registered elector residing in the Township, a petition may be filed with the Township Clerk within thirty (30) days following publication of the ordinance. If a petition signed by a number of registered electors residing in the Township, equal to not less than ten (10) percent the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, is filed with the Township Clerk, a referendum on the ordinance amendment shall be held.

SECTION 14.03 Conditional Rezoning

A. Intent

It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.

4. Approval of a conditional rezoning does not guarantee approval of any special use permit which may be required as part of the conditional rezoning project, and review of the special use permit must follow the procedures outlined in Article 9 before development can begin.
5. Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in Article 13 before development can begin.
6. Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in Article 8 before development can begin.
7. The offer of conditions may be amended during the process of rezoning, provided that any amended or additional conditions are offered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs after the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this article.

C. Planning Commission Review

After public hearing and consideration of the factors for rezoning set forth in Section 14 of this Ordinance, the Planning Commission may:

1. Recommend approval of the conditional rezoning
2. Recommend approval of the conditional rezoning with changes
3. Recommend denial of the conditional rezoning

Provided, however, that any recommended changes to the offer of conditions are acceptable to and offered by the owner.

D. Township Board Review

After receiving the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall consider the factors for rezoning set forth in Section 14 of this Ordinance. Should the Township Board propose amendments to the proposed conditional rezoning, and the amendments are acceptable to and offered by the owner, then the rezoning application shall be referred back to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this article.

E. Approval

1. If the Township Board finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions provided said conditions conform to this section. The Statement of Conditions shall be incorporated into the ordinance adopted by the Township Board.
2. The Statement of Conditions shall:
 - a. Be prepared as a notarized Affidavit signed by the owner.

- b. Contain a legal description of the land being rezoned.
 - c. Acknowledge that the Statement of Conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this section.
 - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the Statement of Conditions.
 - e. Include the notarized signatures of all owners of the subject land, state they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The zoning map shall also include a listing of all lands rezoned with a Statement of Conditions.

F. Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall be deemed a nuisance per se and shall constitute a violation of this Zoning Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to the Statement of Conditions.

G. Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the site plan for approved development shall be submitted within two (2) years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations may upon written request be extended by the Township Board if:

1. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and
2. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

All applicable project completion deadlines in this ordinance related to site plans, special use permits and variances shall apply.

H. Reversion of Zoning

If approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the

Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. If a Statement of Conditions has been recorded, upon the owner's written request, the Township Clerk shall record with the Genesee County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G or during any extension granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3101, et seq.)

L. Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

(Added: Ord No. 663, 7-10-06)