

## ARTICLE IV

### AMENDMENTS

#### **SECTION 4.1 AMENDMENTS**

The Township Board may amend, supplement or change the regulations and boundaries of districts or provisions of this Ordinance pursuant to the authority and according to the procedure set forth in Act 184, of the Public Acts of 1943, as amended.

Applications or petitions to the Planning Commission for amendment involving requested reclassification of property shall be in writing and shall be accompanied by a filing fee in an amount set forth by the Township Board which shall be paid to the Township Treasurer at the time that the application is filed. (Such filing fee to be deposited in the general fund of the Township.)

#### **SECTION 4.2 APPLICATION FOR REZONING**

An amendment to the official zoning map, hereafter referred to as "rezoning," may be initiated by the Township Board, the Planning Commission or by the owner or owners of the land that is the subject of the proposed amendment. Applications or petitions to the Planning Commission for amendment involving requested reclassification of property shall be in writing and shall be accompanied by a filing fee in an amount set forth by the Township Board which shall be paid to the Township Treasurer at the time that the application is filed. (Such filing fee to be deposited in the general fund of the Township.) Amendments or rezoning initiated by the Township Board or Planning Commission do not require an application or fee. An application for rezoning shall be accompanied by the following:

1. The name and address of the applicant and proof of ownership in the subject property. The applicant shall be the owner in fee simple title of the property, shall have legal interest in the property, such as a purchase agreement, or have written authority to act as an agent to the owner of the property.
2. A legal description and street address of the subject property.
3. A written description of how the requested rezoning satisfies the requirements identified in Section 4.4 below.
4. A site analysis plan, the scale of which shall be no less than 1" = 200' and includes the following information:
  - a. A title indicating the nature of the rezoning request, the applicant's name and the side address or general location;
  - b. A legend indicating the owner of record, surveyor or engineer, as applicable, the date of submission, scale and north arrow;
  - c. A survey or plat map illustrating the subject property and boundary dimensions;
  - d. Existing and proposed zoning classification(s) of the site and adjacent parcels.
  - e. The location of existing site boundary lines, buildings, structures or other improvements, parking areas and driveways;

- f. The location, width and names of existing streets and public or private easements adjacent to the site;
  - g. The location of existing natural features, including but not limited to the location of existing drainage courses, floodplains, wetlands and other relevant information the Planning Commission has determined to be necessary and essential to making an informed recommendation to the Township Board.
5. An applicant for a rezoning may voluntarily offer certain conditions and limitations as part of the rezoning application (hereafter referred to as "zoning agreement"). The offer for a zoning agreement shall be submitted at the time the rezoning application is filed or in response to comments received at the public hearing. An election to file a rezoning with a zoning agreement shall be in writing and shall be pursuant to the Township Zoning Act, specifically MCL 125.286i, as amended, and Section 4.5 below. When necessary, the zoning agreement shall also include and incorporate, by reference, a conceptual site plan review and approval as outlined in Article 16. The Township may voluntarily accept the offer for a zoning agreement, but shall not be obligated to accept such offer.

## **SECTION 4.3 PUBLIC HEARING AND REVIEW PROCEDURES**

- 1. Upon submittal of a complete application for rezoning to the Township, the item shall be scheduled before the Planning Commission for a public hearing.
- 2. In all cases of a rezoning or a text amendment, the Planning Commission shall conduct a public hearing to present the request and to receive comments. Notice of the hearing shall be given as follows:
  - a. If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, the Township shall give a notice of the proposed rezoning in the same manner as required under section 21.6.
  - b. If eleven (11) or more properties are proposed for rezoning, or if an amendment is proposed to the text of the ordinance, the Township shall give a notice of the proposed rezoning in the same manner as required under section 21.6, except for the individual property notices required by subsection 21.6.2.b., and 21.6.2.c. and except that no individual addresses of properties are required to be listed under section 21.6.1.b..
- 3. If an individual property or several adjacent properties are proposed for rezoning, the Township shall give separate notice by postmarked mail to the owners of property for which the approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary in question, and to the occupants of all structures within three hundred (300) feet not less than eight (8) calendar days before the hearing. Such notice shall be in addition to the publication required by paragraph 2 above. In the case of a rezoning, the Township may provide notice of the public hearing indicating it will be considering the requested zoning district or other less intense zoning districts.
- 4. Where the applicant has offered a zoning agreement, the zoning agreement may be offered or amended in response to comments raised during the public hearing; provide that any amended or additional agreements are voluntarily offered by the applicant

and they are in direct response to discussion at the public hearing.

5. Following the public hearing, the Planning Commission shall identify and evaluate factors relevant to the petition and the criteria in this article and shall make its recommendation to the Township Board.
6. The Planning Commission's recommendation, minutes of the public hearing shall be provided to the Township Board to be placed on the agenda of the next regularly scheduled meeting of the Township Board to consider the proposed rezoning.
7. Where the applicant has offered a zoning agreement, the zoning agreement shall be reviewed by the Township Attorney prior to the Planning Commission making a recommendation to the Township Board on the rezoning application. The Township Attorney shall determine that the zoning agreement conforms to the requirements of Section 4.5 below and the Township Zoning Act as amended, and shall confirm that the zoning agreement is in a form acceptable for recording with the County Register of Deeds.
8. Following the submission of Planning Commission recommendation, the Township Board may hold additional hearings if the Township Board considers it necessary. Pursuant to Michigan Public Act 184 of 1943, as amended, the Township Board may by majority vote of its membership:
  - a. Adopt the proposed rezoning, including any agreement provided for in subsection 9 below;
  - b. Reject the proposed rezoning; or,
  - c. Refer the proposed rezoning back to the Planning Commission for further recommendation. Thereafter, the Township Board may either adopt the rezoning with or without the recommended revisions, or reject it.
9. If a zoning agreement has been offered by the applicant and recommended for approval by the Planning Commission, the Township Board may approve the zoning agreement if it meets all requirements of Section 4.5 below. If an applicant proposes a zoning agreement after the Planning Commission has made a recommendation on the rezoning request, the Township Board shall first remand the application back to the Planning Commission to resubmit a recommendation on the rezoning and the zoning agreement to the Township Board. The zoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning. All of the following shall apply to a rezoning that was conditionally approved along with a zoning agreement:
  - a. The zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the zoning agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a zoning agreement (i.e., "R1A-a").
  - b. The Township Clerk shall maintain a listing of all properties subject to zoning agreements and shall provide copies of the agreements upon request. The

approved zoning agreement shall be recorded by the applicant with the County Register of Deeds.

- c. Unless extended by the Township Board for good cause, the zoning agreement and associated rezoning shall expire two (2) years after adoption of the rezoning and zoning agreement, unless a building permit has been issued, construction has begun on the approved development of the property and proceeds diligently towards completion. In the event that the zoning agreement expires it shall be void and of no effect.
- d. Notwithstanding the above, if the property owner applies in writing for an extension of the zoning agreement at least fifty (50) days prior to the expiration date, the Township Board may, after recommendation by the Planning Commission, grant an extension of up to one (1) year. No further extensions may be granted.
- e. Should the zoning agreement become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the Township is taken to bring the property into compliance with the zoning agreement, the Township may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
- f. If the rezoning and zoning agreement become void as outlined above, then the land shall revert back to its original zoning classification as set forth in MCL 125.286i. Such reversion shall be initiated by the Township Board with notice and hearing as required for rezonings by the Township Zoning Act and this Ordinance.
- g. Any amendment to the zoning agreement following the original approval by the Township Board shall require review by the Planning Commission and a recommendation to the Township Board. Any amendment to the zoning agreement that the Planning Commission determines to be major changing the basic conditions of the rezoning shall require a public hearing by the Planning Commission and a recommendation to the Township Board, in the same manner as was prescribed for the original rezoning.

#### **SECTION 4.4 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP (REZONING)**

In considering any petition for an amendment to the official zoning map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision:

1. Consistency with the goals, policies and future land use map of the Township Master Plan. If conditions have changed since the master plan was adopted, the rezoning may be found to be consistent with recent development trends in the area.
2. Appropriate timing for the zoning change in consideration of any infrastructural improvements necessary to support the zoning.
3. Compatibility of the site's physical, geological, hydrological and other

environmental features with all uses permitted in the proposed zoning district compared to uses permitted under current zoning.

4. Compatibility of all uses permitted in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values compared to uses permitted under current zoning.
5. Capacity of the public infrastructure and services to accommodate all the uses permitted in the requested district without compromising the "health safety and welfare" of the Township.
6. Capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
7. Apparent demand for the types of uses permitted in the requested zoning district in the Township, and surrounding area, in relation to the amount of land in the Township, and surrounding area, currently zoned and available to accommodate the demand.
8. Ability of the site to meet the dimensional regulations for the requested zoning district.
9. The requested rezoning will not create an isolated and unplanned spot zone.
10. If a rezoning is appropriate, the requested zoning district shall be more appropriate from the Township's perspective than another zoning district.
11. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
12. Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the Township, and enhance the overall quality of life in the Township.

#### **SECTION 4.5 ZONING AGREEMENT**

An applicant for a rezoning may voluntarily offer a zoning agreement along with an application for rezoning. An election to file a rezoning with a zoning agreement shall be pursuant to the Township Zoning Act, specifically MCL 125.286i, as amended, and this Article. The conditions set forth in the zoning agreement must be voluntary and equally or more restrictive than the regulations that would otherwise apply under the proposed zoning district. The zoning agreement shall be a written agreement that is approved and executed by the applicant and the agreement shall be a written agreement that is approved and executed by the applicant and the Township and recorded with the County Register of Deeds. When necessary, the zoning agreement shall also include and incorporate, by reference, a site plan. This plan shall not replace the requirement for a site plan as outlined in Article 16. The zoning agreement must be voluntarily offered by the applicant and the Township shall not have the authority to require an applicant for rezoning to offer such agreement and shall not have the authority to require modification to a zoning agreement without the consent of the applicant; provided, the Township shall not enter into a zoning agreement that is not found acceptable to the Township Board.

1. The zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and

use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features. The zoning agreement may not authorize uses or developments of greater intensity or density, or which are not permitted in the proposed zoning district; nor may a zoning agreement permit variances from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district. The zoning agreement may include conditions related to the use and development of the property that are necessary to:

- a. Serve the intended use of the property such as extension of or improvements to roadways, utilities or other infrastructure serving the site;
  - b. Minimize the impact of the development on surrounding properties; and
  - c. Preserve natural features, historic resources and open space.
2. Content of Agreement: In addition to any limitations on use or development of the site, preservation of site features or improvements described in 1 above, the zoning agreement shall also include the following:
- a. Acknowledgement that the zoning agreement was proposed voluntarily by the applicant and that the Township relied upon the agreement and may not grant the rezoning but for the terms spelled out in the zoning agreements.
  - b. Acknowledgement that the zoning agreement and its terms and conditions are authorized by all applicable State and Federal law and constitution, and that the zoning agreement is valid and was entered into on a voluntary basis.
  - c. Agreement and understanding that the property shall only be developed and used in a manner that is consistent with the zoning agreement.
  - d. Agreement and understanding that the approval of the rezoning and the zoning agreement shall be binding upon and inure to the benefit of the property owner and the Township, and also their respective heirs, successors, assigns, receivers or transferees.
  - e. Agreement and understanding that, if a rezoning with a zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
  - f. Agreement and understanding that no part of the zoning agreement shall permit any activity, use, or condition that would otherwise not be permitted in the new zoning district.
  - g. A legal description of the land to which the agreement pertains.
  - h. Any other provisions as are agreed upon by the parties.
3. Any uses proposed as part of a zoning agreement that would otherwise require approval of a special approval or site plan approval shall be subject to the applicable review and approval requirements of Articles 15 and 16.

4. Nothing in the zoning agreement, nor any statement or other provision, shall prohibit the Township from later rezoning all or any portion of the land that is the subject of the zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Township Zoning Act.
5. Failure to comply with the zoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance and further use of the property may be subject to legal remedies available to the Township.