

**ARTICLE XXIII
AMENDING THE ZONING ORDINANCE AND MAP**

Section 23.01 INITIATING AMENDMENTS.

The Township Board may from time to time, on recommendation from the Planning Commission, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the interests of the public health, safety, convenience and other aspects of the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 23.02 AMENDMENT PROCEDURES.

- A. This Ordinance may be amended in accordance with the procedures in the Michigan Zoning Enabling Act, 2006 PA 110, as amended, and this Ordinance.
- B. Upon the Township Clerk=s receipt of a petition requesting an amendment to this Ordinance, the Township Clerk must transmit the petition to the Township Planning Commission for review and report to the Township Board.
- C. Planning Commission Procedures.
 - 1) The Planning Commission must hold at least 1 public hearing on the petition, and establish a date for a public hearing on the petition.
 - 2) Notice of the time and place of the Planning Commission's public hearing must be given as follows:
 - a) If an individual property of 10 or fewer adjacent properties are the subject of the petition for rezoning, the Planning Commission must give notice of the petition as follows:
 - i) The Township must publish notice in a newspaper of general circulation in the Township; and
 - ii) The Township must also send notice by mail or personal delivery to the owners of property for which approval is being considered; and
 - iii) The Township must also send notice to all persons to whom real property is assessed within 300 feet of the property, and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the Township.

- iv) The notice must be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification.
- v) Contents of Notice. The notice must do all of the following:
 - (1) Describe the nature of the amendment request.
 - (2) Indicate the property that is the subject of the request. The notice must 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.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
- b) If 11 or more adjacent properties are proposed for rezoning, the Planning Commission must give notice of the petition proposing rezoning as in the same manner as required under the preceding paragraph (15.903 Sec. 59.03 (C)(2) except that
 - i) the notice need not be sent by mail or personal delivery to the owners of property for which approval is being considered,
 - ii) the notice need not be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is in the Township, and
 - iii) no individual addresses of properties are required to be listed in the notice.
 - iv) Notice of the time and place of the meeting must also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone effected, and the airport manager of each airport that registered its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- 3) All notices under this section must include the place and time at which the proposed text and any maps of this Ordinance may be examined.

- 4) Following the required public hearing (and within 125 days of the petition's filing date), the Planning Commission must transmit a summary of comments received at the hearing and its proposed recommendations for disposition of the petition to the Township Board. The 125 day time limit may be extended by agreement of the petitioner and Planning Commission.

D. Township Board Procedures

- 1) After receiving the Planning Commission's summary of comments and recommendations regarding the petition, the Township may hold a public hearing if it considers it necessary or if otherwise required by law. If the Township Board opts to hold a public hearing, the Township must give notice of it in the same manner as the Township Planning Commission was required to give notice of its public hearing regarding the petition.
- 2) The Township must grant a hearing on a proposed ordinance amendment to a property owner who requests a hearing by certified mail, addressed to the Township Clerk.
- 3) If the Township Board deems it advisable to make changes to the proposed amendment forwarded to it by the Planning Commission, the Township Board may refer such to the Township Planning Commission for consideration and comment within a time specified by the Township Board.
- 4) The Township Board must consider and vote upon the petition. Any amendment to this Ordinance requires a majority vote by the Township Board.
- 5) In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:
 - a) Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
 - b) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
 - c) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
 - d) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(Ord. No. 1 eff. Jan. 8, 1983 amended by Ord. No. 201 eff. Dec. 21, 2006)

Section 23.03 CONDITIONAL REZONING.

A. **Intent.** It is recognized that there are certain instances where it would be in the best interests 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 a 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 3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the zoning 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 must be made either at the time the application for rezoning is filed or by an amendment to the application for conditional rezoning made 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 or conditions, except as modified by the requirements of this Section.
- 3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- 4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- 5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- 6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- 7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- 8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered 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 subsequent to 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 with appropriate notice and a new recommendation.

- C. **Planning Commission Review.** The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 23.02 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner. The Applicant shall pay for any additional administrative costs incurred by the Township in reviewing the application for conditional rezoning.

- D. **Township Board Review.** After receipt of 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 include, but not be limited to, a consideration of the factors for rezoning set forth in Section 23.02 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with Sec. 23.02 to deny or approve the conditional rezoning with or without amendments.

- E. **Approval.**
 - 1) If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

 - 2) The Statement of Conditions shall:
 - a) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.

 - b) Contain a legal description of the land to which it pertains.

 - c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

 - d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owners that are necessary to

illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the references shall specify where the document may be examined.

- e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
 - f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that 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 the designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
 - 4) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
 - 5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the 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 the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- 2) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable 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 approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to

completion. This time limitation 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.

- H. **Reversion of Zoning.** If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification. The revision 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 thereafter 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 thereafter 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 Section H above or otherwise, the Statement of Conditions imposed under the former zoning classifications shall cease to be in effect. Upon the owner’s written request, the Township Clerk shall record with the Register of Deeds in the County in which the land is located 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 above or during any extension thereof 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 thereafter in the same as was prescribed for the original rezoning and Statement of Conditions.
- K. **Township Right to Rezone.** Nothing in the Statement of Conditions nor 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 2006 PA 110, as amended.
- 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.

(Ord. No. 202 eff. Dec. 21, 2006)

Section 23.04 REFERENDUM.

- A. Within 7 days after publication of an amendment to the Zoning Ordinance, a registered elector residing in the zoning jurisdiction of the Township may file with the clerk of the

Township a notice of intent to file a petition under this section and Section 402 of the Zoning Enabling Act, 2006 PA 110, as amended.

- B. If a notice of intent is filed under the above paragraph, the petitioner has 30 days after publication of the amendment to file a petition signed by a number of registered electors residing in the Township not less than 15% of the total votes cast within the Township for all candidates for governor at the last preceding general election at which a governor was elected, with the Township Clerk, requesting submission of the amendment to the electors residing in the unincorporated portion fo the Township for their approval.
- C. Upon the filing of the notice of intent, the amendment at issue will only take effect as provided by law, including 2006 PA 110, as amended.

(Ord. No. 201 eff. Dec 21, 2006)