

ARTICLE XX AMENDMENTS

Sec. 20-2000 Initiation of Zoning Ordinance Amendment

(a) Any proposal for an amendment to the zoning ordinance text or map may be initiated by any qualified voter, resident on the township upon the filing with the township clerk of a petition containing the proposed text or map change and endorsed by not less than 100 township electors.

(b) Any proposal for an amendment to the zoning ordinance map may be initiated by any owner of an interest in the lot as to the zoning of such lot upon the filing with the township clerk an application on forms provided by the township proposing the zone change, accompanied by a map at an appropriate scale showing the subject parcel in relation to adjoining parcels of land, and the necessary fees for such zoning change.

(c) Any proposal for an amendment to the zoning ordinance text or map may be initiated by the Township Board or the Township Planning Commission, upon filing with the township clerk a resolution, duly adopted and proposing an amendment.

Sec. 20-2001 Zoning Amendment Review Procedures

(a) The township clerk shall give notice of the time and place of the Township Planning Commission meeting at which the amendment will be heard by one (1) publication in a newspaper of general circulation in the township.

- (1) The notice shall be published not less than fifteen (15) days from the date of such hearing.
- (2) The notice shall include:
 - a. The places and times at which the tentative text and any maps of the zoning ordinance may be examined.
 - b. Describe the nature of the request.
 - c. 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.
 - d. State when and where the request will be considered.
 - e. Indicate when and where written comments will be received concerning the request.

(b) The township clerk shall give similar notice to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving such notice.

- (1) Such notice shall be given by first class mail not less fifteen (15) days before the hearing. The township clerk shall maintain an affidavit of such mailing.

(c) The township clerk shall deliver notice of the proposed amendment and public hearing date to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all structures within three hundred (300) feet, including those outside the jurisdiction of Flushing Township.

- (1) Such notice shall be delivered personally or given by certified mail not less than fifteen (15) days before the hearing.
- (2) If a tenant's name is not known, the term "occupant" may be used.
- (3) Notification of surrounding property owners and occupants does not apply to rezoning requests involving 11 or more adjacent parcels.

(d) The Township Planning Commission shall hold a public hearing on the property amendment and shall transmit notice of the proposed amendment and a summary of public hearing comments to the Township Board with its recommendations.

(e) In reviewing an application for the rezoning of land, whether the application is 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:

- (1) Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- (2) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- (3) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- (4) 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.

(f) Upon receipt of the recommendations of the Township Planning Commission the Township Board shall take action approving or disapproving the proposed amendment. If the Township Board chooses to hold a public hearing on the proposed amendment, they must comply with the notice requirements outlined in paragraphs (a), (b), and (c) above. If the Township Board wishes to make any changes to the ordinance before adopting it, they may, at their option, resubmit the amendment to the Planning Commission for further review. (Amended by Adoption December 14, 2006, Sec.20-2001 (a), (b), (c) and (f))

Sec. 20-2002 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 owners of an interest in property (hereinafter "owner" shall mean owner of an interest in property) 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 16i of the Township Zoning Act (MCL 125.286i) 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. Unless the ordinance or amendment to the ordinance specifies a later date, the ordinance or amendment shall be effective upon expiration of seven (7) days after publication. (Amended Sec. 20-2002 (a) by Adoption December 14, 2006)

(b) Application and Offer of Conditions.

(1) An owner of an interest in property 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 may be 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 of 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) 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.

(5) 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.

(6) 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.

(7) 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 20-2001(e) 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.

(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 20-2001(e) 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, in accordance with Section 11 of the Township Zoning Act (MCL 125.281), 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 said statute 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:

(i) 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.

(ii) Contain a legal description of the land to which it pertains.

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

(iv) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(v) 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.

(vi) 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 a 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 with which the conditions are to be satisfied, the recording to 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 of 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 as set forth in MCL 25.286i. 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 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 Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of 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 manner 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 the Township Zoning Act (MCL 125.271, 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.

Sec. 20-2003 Notice of Adoption

(a) Following adoption of zoning ordinance amendments by the Township Board, the amendments shall be file with the Township Clerk, and a notice of ordinance adoption

shall be published in a newspaper of general circulation in the local unit of government within fifteen (15) days after adoption.

(b) A copy of the notice required under subsection (a) shall be mailed to the airport manager of an airport entitled to notice under Section 20-2001 (b).

(c) The notice required under this section shall include all of the following information:

- (1) Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- (2) The effective date of the ordinance or amendment.
- (3) The place where and time when a copy of the ordinance or amendment may be purchased or inspected. (Amended by Adoption December 14, 2006, Sec. 20-2003 added)

Sec. 20-2004 Fees

The Township Board shall set the fees for special meetings.