

ARTICLE 5

ADMINISTRATION & ENFORCEMENT

SECTION 5.1 ZONING ADMINISTRATION

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.

SECTION 5.2 ZONING PERMIT

- A. Any new construction, or exterior alterations or structural alterations, or changes in use of existing buildings shall require a permit from the Zoning Administrator. No such permit shall be required for any lawful use of any building or structure in effect at the time of passage of this Ordinance.
- B. The application shall be signed by the owner of the premises or his agent or other person acting upon written consent of the owner and shall certify that all provisions of the Ordinance and other applicable laws and requirements are to be complied with.
- C. The application shall be filed not less than ten (10) days prior to the intended initiation of any work on the premises.
- D. The application shall include the following information at a minimum:
 - 1. A line drawing to scale showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein;
 - 2. The size, dimensions, location on the premises, and height of all buildings, or structures to be erected or altered;
 - 3. The width and alignment of all abutting streets, highways, alleys, easements, and public open spaces;
 - 4. The location and dimensions of sewage disposal facilities to be erected on the premises under consideration;
 - 5. The location of all wells to be drilled on premises;
 - 6. All proposed setbacks from lot lines; and
 - 7. The locations of all ingress and egress locations, and parking areas including for commercial uses, the dimensions and number of proposed parking spaces;
 - 8. Other information requested by the Zoning Administrator as required for complete review of the application, including, but not limited to a staked property survey, including topographic elevations at 5-foot intervals where necessary to confirm compliance with Section 4.27, Steep Slope Protection Overlay.

- E. Whenever the building, structure or use set forth in the application is in conformity with the provisions of the Ordinance, the Zoning Administrator shall issue the owner a zoning permit within ten (10) days of the filing thereof.
- F. Where action of the Zoning Board of Appeals, Planning Commission and/or Township Board is required in any case, the Zoning Administrator shall convey the application and all required information to the applicable body prior to issuing a zoning permit.
- G. Any zoning permit issued under which no work is done within twelve (12) months from the date of issuance shall expire; but shall be renewable upon re-application and payment of a new fee, subject, however, to the provisions of all Ordinances in effect at the time of renewal.
- H. The Zoning Administrator shall have the power to revoke or cancel any permit in the case of false statement or misrepresentation made in the application. The owner shall be notified of such action in writing.
- I. After completion of construction, or as necessary, prior to construction of footings, or prior to occupancy, the Zoning Administrator shall inspect the premises.
- J. It shall be the duty of all contractors and other persons having charge of erection, reconstruction or movement of a building or structure, to insure that permits have been obtained before undertaking any such work, and all such persons performing any work in violation of the provisions of this Ordinance shall be deemed responsible for a violation in the same manner and to the same extent as the owner of the premises.

SECTION 5.3 FEES.

The following shall govern zoning fees under this Ordinance:

- A. To cover the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
 - 1. Zoning permits.
 - 2. Special use permits.
 - 3. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - 4. Classification of unlisted property uses.
 - 5. Requests for variances from the Zoning Board of Appeals.
 - 6. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Township Board or the Planning Commission shall not be subject to a rezoning fee.
 - 7. Site plan reviews.

8. Review of development plans.
9. Extensions of nonconforming uses.
10. Removal of sand, soil, or other material.
11. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including, but not limited to, the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant. No separate zoning fee shall be required for accessory structures, if those accessory structures are applied for on the same application as the principal structure.

- B. If the Township Board, upon recommendation of the Planning Commission or Zoning Board of Appeals, determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Township Board, upon recommendation of the Planning Commission or Zoning Board of Appeals, determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professional is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Township Board equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Township Board may require the applicant to deposit additional fees into escrow in an amount determined by the Township Board to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to any final decision regarding the issuance of any permit or decision on an appeal.

SECTION 5.4 AMENDMENT PROCEDURE

- A. Amendments to this Zoning Ordinance may be made from time to time in the manner provided by law.
- B. Proposals for amendments may be initiated by the Township Planning Commission, Township Board or by petition of one (1) or more property owners.

- C. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee prescribed by the Township Board. No part of such fee shall be refundable.
- D. The Zoning Administrator shall notify, in writing, the Chairman of the Township Planning Commission of the requested amendment.
- E. The Township Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and its impacts and effects on the community's physical development and its compliance or lack thereof with the adopted Township Plan. The Township Planning Commission may recommend any additions or modifications to the original amendment proposal.
- F. The Township Planning Commission shall conduct a public hearing.
 - 1. The Township shall publish notice of the request and public hearing in a newspaper of general circulation in the Township.
 - 2. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also 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 located in the zoning jurisdiction.
 - 3. The notice shall 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 under this subsection. The notice shall do all of the following:
 - 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 not street addresses, other means of identification may be used.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
 - e. The places and times at which the proposed text and any maps of the zoning ordinance or related amendments may be examined.
 - 4. If eleven (11) or more adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning as provided above, except for the requirement of F.2 above and except that no individual addresses of properties are required to be listed under F.3.b.

- G. Meeting notices shall be posted at the meeting hall in compliance with the Open Meetings Act, P.A. 267 of 1976.
- H. Following the public hearing, the Township Planning Commission shall transmit their recommendations on the proposed amendment to the County Planning Commission for review and comment.
- I. The Township Board will take final action on the proposal at their next regular meeting or within a reasonable period of time following response by the County Planning Commission. The Township Board shall hold a public hearing if it considers it necessary or if a property owner requests a hearing by certified mail, addressed to the Township Clerk. Such hearing shall be noticed as specified under 5.4.F.
- J. If the Township Board shall deem any amendments, changes, additions or departures advisable as to the proposed text or district boundaries, it shall refer the same back to the Township Planning Commission for a report thereon within thirty (30) days.
- K. After the public hearing, if any, the Township Board shall consider and vote upon the adoption of the proposed change to the ordinance or rezoning, with or without amendments. The proposed change to the ordinance or rezoning shall be approved by a majority vote of the members of the Township Board.
- L. Amendments to the zoning ordinance shall become effective eight (8) days after publication by the Township Clerk of a notice of adoption of an amendment in a newspaper of general circulation. Such publication shall be made within fifteen (15) days of adoption.

SECTION 5.5 ENFORCEMENT

- A. Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Any person, partnership, corporation or association who creates or maintains a nuisance per se as defined in subsection A above or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than five hundred and 00/100 (\$500.00) dollars. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.
- C. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- D. In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

SECTION 5.6 CONDITIONS

The Planning Commission or Zoning Board of Appeals may attach reasonable conditions with the approval of a development within the Village Area Mixed Use District, a site plan, special use permit, or variance. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

SECTION 5.7 PERFORMANCE GUARANTEE

In connection with the construction of improvements in a development within the Village Area Mixed Use District, through site plan approval, or special land use approval the Planning Commission may require the applicant to furnish the township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has voluntarily agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the development, or if the development has been approved in phases, then the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

SECTION 5.8 REHEARINGS

- A. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Planning Commission's or Zoning Board of Appeals' findings of fact which occurred after the public hearing.
 3. The township attorney by a written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.