

**ARTICLE 19**

**TEXT AMENDMENTS AND REZONINGS**

5

**SECTION 19.01      INITIATING AMENDMENTS**

The Township Board may, from time to time, amend, modify, supplement, or revise the district boundaries of the official zoning map or the provisions and regulations of this Ordinance. Amendments to the official zoning map which constitute a change in zoning classification may also be referred to as rezonings. Amendments may be initiated by the Township Board, the Township Planning Commission, by petition of one or more property owners of Highland Township, or by one (1) or more persons acting on behalf of a property owner(s) of Highland Township. All proposed amendments shall be referred to the Township Planning Commission for review, public hearing, and recommendation before action may be taken thereon by the Township Board.

20

**SECTION 19.02      AMENDMENT PROCEDURE**

The procedure for amending this Ordinance, including the official zoning map, shall be in accordance with the Michigan Zoning Enabling Act (MCL 12.5 3101 et. seq.)

25

Application for amendment shall be made by submitting the application, along with required information and the required fee, to the Zoning Administrator. After receipt of filing, the Zoning Administrator shall transmit copies of the application and required information to the Planning Commission. The Planning Commission shall establish a date for a public hearing on the application and the Township shall give proper notice of the hearing, including notice to property owners and occupants in the vicinity, as provided in the Michigan Zoning Enabling Act.

30

Requirements of written notice to property owners shall not apply to comprehensive revisions to the zoning ordinance. Public hearing requirements shall apply to amendments initiated by the Township Board, the Township Planning Commission and by any other governmental agency or body.

35

**SECTION 19.03      CONDITIONAL REZONING**

40

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 classification, that certain conditions could be proposed by property owners as part of a request for rezoning. This is especially true since the Township must consider all potential uses which may be made of property when considering a traditional rezoning request, some of which may be inappropriate for a particular piece of property considering items such as, but not limited to, the surrounding land uses, the Township Master Plan, available infrastructure, and natural features. It is the intent of this Section to provide a process set forth in Section 19.06 Process for Conditional

45

Rezoning 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.

5

**SECTION 19.04 INFORMATION REQUIRED**

- 10 A. If a petition involves an amendment to the official zoning map (rezoning), the petitioner shall submit the following information:
1. A legal description of the property, including a street address and tax code number(s).
  - 15 2. The name and address of the petitioner, the record owner, and all other parties claiming an interest in said property.
  - 20 3. The petitioners interest in the property. If the petitioner is not the record owner, the name and address of the record owner(s), and the record owner(s) and other interested parties signed consent to the petition. The consent of mortgagees, lienors, and similar such parties shall not be required.
  - 25 4. A copy of a warranty deed for the property.
  5. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the information.
  - 30 6. Identification of the zoning district requested and the existing zoning classification of property.
- 30 B. If a petition involves an amendment to the official zoning map with conditions (conditional rezoning) the requirements of Section 19.04A and the specific requirements set forth in Section 19.06, Process for Conditional Rezoning, must be met.
- 35 C. If a petition involves a change in the text of the zoning ordinance, the petitioner shall submit the following information:
- 40 1. A detailed statement of the proposed amendment, clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
  2. Name and address of the petitioner.
  - 45 3. Reasons for the proposed amendment.

**SECTION 19.05 REVIEW OF AMENDMENTS**

- 5 A. In reviewing any petition for a zoning amendment, the Planning Commission shall evaluate all factors relevant to the petition and shall make its recommendations for disposition of the petition, to the Township Board within a period of sixty (60) days from the date of the Public Hearing. The time limit may be extended by mutual written agreement between the Planning Commission and the applicant.
- 10 B. The factors to be considered by the Planning Commission may include, but shall not be limited to, the following:
1. Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
  - 15 2. Is the proposed amendment consistent with the Master Plan of the Township?
  3. Have the conditions changed since the current zoning was adopted, or was there a mistake in the Zoning Ordinance that justifies an amendment?
  - 20 4. Will the amendment correct an inequitable situation created by the Zoning Ordinance rather than merely grant special privileges?
  5. Will the amendment set an inappropriate precedent?
  - 25 6. Is the requested zoning consistent with the existing or planned surrounding land uses?
  - 30 7. If the rezoning is granted, could all requirements in the proposed zoning classification be complied with on the subject property?
  8. Would the proposed rezoning be consistent with the trends in land development in the general vicinity of the subject property?
  - 35 9. Would the proposed rezoning have a negative impact on public services, utilities, or roads?
  - 40 10. Would the proposed rezoning negatively impact natural features on the site, such as woodlands or wetlands?
- C. All findings shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

**SECTION 19.06 PROCESS FOR CONDITIONAL REZONING**

**A. Application and Offer of Conditions.**

- 5           1.     Authorization and Limitations.
- a.     An owner of land may voluntarily offer in writing conditions relating to  
              the use and/or development of land for which a conditional rezoning is  
10           requested. This offer may be made either at the time the application for  
              conditional rezoning is filed, or additional conditions may be offered at a  
              later time during the conditional rezoning process as set forth below.
- b.     The owner’s offer of conditions may not purport to authorize uses or  
15           developments not permitted in the requested new zoning district. The  
              owner’s offer of conditions shall bear a reasonable and rational  
              relationship to the property for which the conditional rezoning is  
              requested. Further, the Planning Commission and Township Board shall,  
              at a minimum, consider all the following standards in rendering a decision  
20           on a request for conditional rezoning:
- c.     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  
25           development is ultimately granted in accordance with the provisions of  
              this Ordinance.
- d.     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  
30           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.
- e.     Any use or development proposed as part of an offer of conditions that  
35           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 terms of this Ordinance.
- 40           2.     Amendment of Conditions. The offer of conditions may be amended during the  
              process of conditional rezoning consideration, provided that any amended or  
              additional conditions are entered voluntarily by the owner, and confirmed in  
              writing. An owner may withdraw in writing all or part of its offer of conditions  
45           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  
              back to the Planning Commission for a new public hearing with appropriate  
              notice and a new recommendation.

3. General Procedure. A request for a conditional rezoning shall be commenced by filing a petition with the Zoning Administrator, on the required forms, accompanied by the specified fees. The petition shall explicitly describe the proposed conditional rezoning and shall be signed by the owner of the property. Petitions for conditional rezoning of a specific site shall be accompanied by a sketch or survey containing the information set forth in Table 5.2 Site Plan and Sketch Plan Submitted Requirements.

4. Pre-Application Conference.

a. Prior to filing a formal request for a conditional rezoning, and prior to a public hearing, the applicant may informally meet with the Zoning Administrator, and other representatives as deemed necessary by the Township, to discuss the proposed development. The Pre-Application Conference is intended to be informative and advisory in nature, and affords the applicant the opportunity to discuss the land use and planning policies of the Charter Township of Highland.

b. Any and all statements made by the Charter Township of Highland Board of Trustees, Planning Director, Zoning Administrator, Planning Commissioners, Township employees, attorneys, agents or representatives at the Pre-Application Conference have no legal force and are not legal and binding promises, commitments or contracts.

**B. Planning Commission Review.** The Planning Commission, after public hearing and consideration of the factors for conditional rezoning set forth in the review procedures above, 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 in writing. In the event that any recommended changes to the offer of conditions are not subsequently offered by the owner in writing, the recommendation of the Planning Commission shall be considered by the Township Board to be a recommendation of denial of the proposed conditional rezoning.

**C. Township Board Review.** After receipt of the Planning Commission's recommendation, the Township Board shall, consistent with the review procedures above, review the Planning Commission's recommendation and deliberate upon the requested conditional rezoning, and may approve or deny the conditional rezoning request. If the applicant initiates additional or different conditions not considered by the Planning Commission subsequent to the recommendation of the Planning Commission, then the Township Board shall refer such proposed additional or different conditions to the Planning Commission for report thereon within a time specified by the Township Board, and the Township Board shall thereafter proceed to deny or approve the conditional rezoning.

**D. Statement of Conditions.**

1. If the Township Board finds the conditional rezoning request and offer of conditions acceptable, the offer of 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 conditional rezoning. The Statement of Conditions shall:

- a. Be prepared in a form recordable with the Oakland County Register of Deeds;
- 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 the conceptual plan which formed the basis of the conditional rezoning;
- e. Contain the notarized signatures of all the owners of the property proceeded by a statement attesting to the fact that they are the only parties having an interest in the property, and that they voluntarily offer and consent to the provisions contained within the Statement of Conditions;
- f. The Statement of Conditions may be reviewed and approved by the Township Attorney, with the applicant to pay all costs associated with such review and approval;
- g. The approved Statement of Conditions shall be filed by the owner with the Oakland County Register of Deeds within thirty (30) days after approval of the conditional rezoning. The owner shall provide the Township with a recorded copy of the Statement of Conditions within thirty (30) days of receipt. The Township Board shall have the 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 the Statement of Conditions would be of no material benefit to the Township or to any subsequent owner of the land; and
- h. Upon the conditional rezoning taking effect, and after the required recording of the Statement of Conditions, use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

5 E. **Compliance with Conditions.** Any person who establishes development or commences a use upon land that has been conditionally rezoned shall continuously operate and maintain the development or use in full compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply fully with the conditions contained within the Statement of Conditions shall constitute a violation of this 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.

10 F. **Time Period for Establishing Development or Use.**

15 1. The approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the effective date by publication of the conditional rezoning action, and must thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Township Board if:

20 a. It is demonstrated to the Township Board's sole 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

25 b. The Township Board finds that there has not been change in circumstances that would render the conditional rezoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

30 G. **Reversion of Rezoning.** If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the Township Board, and proceed pursuant to the normal rezoning procedures.

35 H. **Subsequent Rezoning of Land.** When land that is conditionally rezoned with the 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 this Section or upon application of the landowner, 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 Oakland County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

40 I. **Amendment of Conditions.**

45 1. During the time period for commencement of an approved development or use specified pursuant to this Section 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 conditional rezoning and Statement of Conditions.

J. **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 Michigan Zoning Enabling Act. (MCL 125.3101 et. seq.).

K. **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.

#### **SECTION 19.07 CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published.

#### **SECTION 19.08 PUBLICATION**

Following Township Board approval of a petition to amend the zoning ordinance, notice of the amendment shall be published as required by applicable state law.

#### **SECTION 19.09 REFERENDUM**

Within seven (7) days after publication of a Zoning Ordinance under this Article, a registered elector residing in the portion of the Township outside the limits of the cities and villages, may file with the Township Clerk a notice of intent to file a petition under this Section. If a notice of intent is filed, then within thirty (30) days following the publication of the Zoning Ordinance, a petition signed by a number of registered electors residing in the portion of the Township outside the limits of cities and villages equal to not less than fifteen percent (15%) ~~percent~~ of the total vote cast for all candidates for governor, at the last preceding general election, at which a governor was elected in the Township may be filed with the Township Clerk requesting the submission of an ordinance or part of an ordinance to the electors residing in the portion of the Township outside the limits of cities or villages for their approval.

Upon the filing of a notice of intent, the ordinance or part of the ordinance adopted by the Township Board shall not take effect until one (1) of the following occurs: (a) The expiration of thirty (30) days after publication of the ordinance, if a petition is not filed within that time. (b) If a petition is filed within thirty (30) days after publication of the ordinance, the Township Clerk

determines that the petition is inadequate. (c) If a petition is filed within thirty (30) days after publication of the ordinance, the Township Clerk determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the portion of the Township outside the limits of cities and villages voting thereon at the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The Township Board shall provide the manner of submitting an ordinance or part of an ordinance to the electors for their approval or rejection, and determining the result of the election.

DRAFT