

**Section 13.1 Applications**

- A. Required Materials: The following materials shall be submitted prior to consideration by the Township of any Site Plan, Special Land Use, Amendments to the Zoning Ordinance or Variance.
1. An application form furnished by the Township.
  2. Payment of a fee which shall be established from time to time by the Township Board for each review type. Said fee shall be set by Township Resolution.
  3. A legal description, either by metes and bounds or by subdivision of lands, including a common description by address.
  4. Site Plans and Location Maps
    - a. For Site Plans and Special Land Uses, nine (9) copies of a site plan meeting the requirements of Section 14.3.
    - b. For Amendments to the Zoning Ordinance, a map indicating the location and dimensions of the property to be rezoned should be attached to the application form. Enough area should be included on the map to clearly locate the property in the Township.
    - c. For variances, a site plan should be submitted at a measurable scale indicating property lines and existing and proposed structures or buildings with accurate dimensions. The area, location or nature of the variance requested should be clearly indicated. Six (6) copies are required to be submitted.
  5. Evidence of the applicant's interest in property (deed, option or other applicable legal document).
- B. Submission: All applications, together with the required materials, shall be submitted to the Township Zoning Administrator.

## Section 13.2 Hearings and Reviews

### A. Public Hearings.

#### 1. Special Land Use.

- a) Upon receipt of an application for a Special Land Use the Township Planning Commission shall provide notice of the request as required under Article 13, Section 13.2, subsection B of the Florence Township Zoning Ordinance. The notice shall indicate that a [public hearing](#) on the special land use application may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located within Florence Township.
- b) At the initiative of the Planning Commission, the Township Zoning Administrator or the Township Board, or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a [public hearing](#) on the Special Land Use application shall be held by the Township Planning Commission.
- c) The Township Planning Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated into a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

#### 2. Rezoning Requests.

- a) For rezoning requests and recommendations, the public hearing and notice provisions contained in Section 13.2.B of this Ordinance shall apply
- b) An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency.

#### 3. Text and Map Amendments.

##### a) Planning Commission

- 1) For all text and map amendments, the Township Planning Commission shall hold at least one (1) [public hearing](#). Notice of the time and place of the [public hearing](#) shall be given as provided in Article 13, Section 13.2, subsections B and C of the Township Zoning Ordinance.
- 2) The Township Planning Commission shall transmit a summary of the public comments received together with the record of its meeting and deliberations and its recommendation on the proposed text amendment to the County Planning Commission and to the Township Board.

##### b) Township Board

- 1) After receipt of a proposed Zoning Ordinance text or map amendment, the Township Board may hold a [public hearing](#) if it considers one necessary or as may otherwise be required.

- 2) The Township Board may refer any proposed amendments to the Township Planning Commission for consideration and comment within a time frame it specifies.
- 3) The Township Board shall grant a hearing on a proposed text or map amendment to a property owner who requests a hearing by certified mail, addressed to the Township Clerk.
- 4) After the [public hearing](#) held under this section or if no public hearing is required at the Township Board level, the Township Board shall consider and vote upon the proposed text or map amendment. A majority vote of the Township Board shall be required in order to approve a text amendment to the Township Zoning Ordinance.

B. Notices of Public Hearings:

1. Hearing Notice Content: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:
  - a. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
  - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such address currently exists within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  - c. Indicate the date, place and time of the hearing(s).
  - d. Indicate when and where written comments will be received concerning the request.
2. Recipients and means of notice: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the information specified in a. above.
  - a. To the general public, by publication of the hearing notice in a newspaper of general circulation in the Township.
  - b. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.

c. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Florence Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.

1) Subsection c. above shall not apply in the cases of rezoning requests involving eleven (11) or more adjacent properties, or for an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.

d. In the case of a text amendment or zoning map amendment, 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 the notice of public hearing, by mail.

3. Timing of Notice: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered for approval, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations.

C. Confirmation of Notices Made by Mail or Personal Delivery: Notice shall be deemed mailed by its deposit in the United States first-class mail, properly addressed and postage paid. The Township Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

### **Section 13.3 Conditional Rezoning**

1. 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 Zoning Enabling Act (MCL125. 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.

2. Application and Offer of Conditions.

A. 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 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.

- B. 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.
  - C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
  - D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
  - E. 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.
  - F. 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.
  - G. 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.
  - H. 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.
3. Planning Commission Review. The Planning Commission, after public hearing and consideration of the factors for rezoning, 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.
4. 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. 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 have the option, but not be required to refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter to deny or approve the conditional rezoning with or without amendments.

5. Approval.

A. 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.

B. The Statement of Conditions shall:

1. Be in a form recordable with the Register of Deeds of St. Joseph County 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.
2. Contain a legal description of the land to which it pertains.
3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
4. 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.
5. 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 St. Joseph County.
6. 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.
6. 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.
7. 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 St. Joseph County. 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.

8. 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.
9. Compliance with Conditions.
  - A. 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.
  - B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
10. 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

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