

TOWNSHIP OF FOREST
ZONING ORDINANCE

ARTICLE 11: Amendments

Section 11.01 - Initiation of Amendments

Proposed amendments to the text of the Ordinance or zoning map may be initiated by the Township Planning Commission or the Township Board by resolution. The Zoning Board of Appeals may not initiate a zoning amendment but may recommend an amendment to the Planning Commission or Township Board. An individual may request a rezoning, provided they are the fee owner of the premises concerned or else have the fee owner's permission. An application for rezoning shall be submitted to the Township Clerk along with a fee, as established by the Township Board.

Section 11.02 - Notice of Hearing

The Planning Commission shall hold a public hearing on any zoning amendment initiated before action on the amendment is taken by the township board. Notice of the public hearing shall be published in a newspaper of general circulation in the Township. The publication shall be made not less than 15 days before the date of the hearing. Notice shall also be mailed 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. If property is proposed to be rezoned, notice shall also be delivered personally or by mail to the owner of the property proposed for rezoning and the owners and occupants of all property within 300 feet of the property proposed to be rezoned regardless of whether those parcels are located within the township. In the case of a rezoning of property within a half (½) mile of the boundary of the Village of Otisville, the Village of Otter Lake or any of the surrounding townships, notice shall also be provided to that municipality's Planning Commission. The notice shall include:

- A. A description of the nature of the request.
- B. The street address of parcel that is the subject of the request in the case of a rezoning. If the property does not have a street address, the parcel's tax description will be used.
- C. When and where the amendment public hearing will be held.
- D. When and where written comments can be sent.
- E. When and where a copy of the request can be reviewed.

Section 11.03 - Planning Commission Hearing and Recommendations

After conducting the required public hearing, the Township Planning Commission shall adopt recommendations as to the approval or denial of the proposed amendment to the Ordinance. The Planning Commission shall transmit its recommendation along with a summary of comments received at the public hearing.

Section 11.04 - Township Board

Upon receipt of the recommendations of the Township Planning Commission, the Township Board shall undertake consideration of the proposed rezoning or text amendment.

- A. If they wish to, the Township Board may hold a public hearing on the amendment. If they choose to hold a public hearing, the Township Board must meet the notice requirements outlined in Section 11.02.
- B. If the Township Board proposes any changes to the amendments they may, at their option, send the changes back to the Planning Commission for their review.
- C. If a property owner submits a request to the Township Clerk by certified mail to be heard regarding a proposed amendment, the Township Board must provide an opportunity for that person to speak on the amendment prior to making a decision.
- D. An amendment to the zoning ordinance requires approval by a majority of the members of the Township Board, not just a majority of the members attending the meeting.
- E. Following adoption of the zoning amendment, one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days of adoption. The notice shall include:
 1. A summary of the regulatory effect of the amendment or the actual text of the amendment.
 2. The effective date of the ordinance. This date may be as few as seven (7) days after the publication of the ordinance.
 3. The place and time where a copy of the ordinance may be purchased or inspected.
- F. If within seven (7) days after publication of an amendment to the ordinance, the Township Board is presented with a notice of intent to file a petition opposing the amendment from a registered elector residing in the Township, a petition may be filed with the Township Clerk within thirty (30) days following publication of the ordinance. If a petition signed by a number of registered electors residing in the Township, equal to not less than ten (10) percent the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, is filed with the Township Clerk, a referendum on the ordinance amendment shall be held.

Section 11.05 - Standards for Approval

In reviewing any proposed amendment the Planning Commission and Township Board shall consider the following:

- A. In the case of a proposal to amend the zoning ordinance text the Township shall find:
 1. The change is necessary to clarify a provision of the ordinance, or
 2. The change is necessary to correct a mistake in the ordinance, or
 3. The change is necessary to implement a goal or policy of the Township Land Use Plan, or
 4. The change is necessary to improve administration of the ordinance or to better serve the community.
 5. In addition to one (1) or more of the above findings, the Planning Commission must determine that the requested amendment is in compliance with the Township Land Use Plan or that a mistake in the plan or changes in conditions or township policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.

- B. In the case of a proposed zoning map amendment (rezoning) the Township shall find one of the following:
1. The requested amendment is in compliance with the Township Land Use Plan or that a mistake in the plan or changes in conditions or township policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
 2. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Land Use Plan.

Section 11.06 - 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 (PA 100 of 2006) 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.

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 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. Approval of a conditional rezoning does not guarantee approval of any Conditional Use Permit which may be required as part of the conditional rezoning project, and review of the special use permit must follow the procedures outlined in Article 9 before development can begin.
5. Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in Article 10 before development can begin.
6. Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in Article 8 before development can begin.
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 after 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 and a new recommendation, with notice as required by this article.

C. Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 11.05 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 receiving 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 11.05 of this Ordinance. Should the Township Board propose amendments to the proposed conditional rezoning and amendments are acceptable to and offered by the owner, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this article.

E. Approval

1. If the Township Board finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions provided said conditions conform with this section. The Statement of Conditions shall be incorporated into the ordinance adopted by the Township Board.
2. The Statement of Conditions shall:
 - a. Be prepared as a notarized Affidavit prepared and signed by the owner.
 - 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 unless otherwise specified by this section.
 - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the Statement of Conditions.
 - e. 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 zoning map shall also include a listing of all lands rezoned with a 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 be deemed a nuisance per se and shall constitute a violation of this Zoning Ordinance and be punishable accordingly.
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 site plan for approved development shall be submitted within two (2) years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations 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. All applicable project completion deadlines in this ordinance related to site plans, special use permits and variances shall apply.

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 Section 405 (2). 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 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 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 or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. If a Statement of Conditions has been recorded, upon the owner's written request, the Township Clerk shall record with the Genesee County Register of Deeds 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 or during any extension 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 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 Michigan Zoning Enabling Act

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.