

**ARTICLE 22
ORDINANCE AMENDMENTS**

Sec. 22.01 INITIATION OF AMENDMENTS

The Township Board may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the Official Zoning Map or the provisions of this Ordinance. Amendments to the provisions of this Ordinance may be initiated by the Township Board, the Planning Commission, or by petition of one or more residents or property owners of the Township. An amendment to the zoning district boundaries (rezoning) contained on the Official Zoning Map may be initiated by the Township Board, the Planning Commission, or by the owner or owners of property which is the subject of the proposed amendment. All proposed amendments to the provisions of this Ordinance or the Official Zoning Map shall be referred to the Planning Commission for public hearing and recommendation to the Township Board, prior to consideration thereof by the Township Board.

Sec. 22.02 APPLICATION PROCEDURE

22.02.01 An amendment to this Ordinance or the Official Zoning Map, except those initiated by the Township Board or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the Township, including an application fee, which shall be established from time to time by resolution of the Township Board.

22.02.02 In the case of an amendment to the Official Zoning Map, the following information shall accompany the application form:

- (a) A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
- (b) The name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, and proof of consent from the property owner.
- (c) The existing and proposed zoning district designation of the subject property.
- (d) A site analysis site plan or current aerial photograph illustrating existing conditions on the site and adjacent properties such as woodlands, wetlands, soil conditions, steep slopes, drainage patterns, views, existing buildings, adjacent land uses, any sight distance limitations and relationship to other developed sites and access points in the vicinity.
- (e) A written environmental assessment as described in Article 13 describing site features and anticipated impacts created by the host of uses permitted in the requested zoning districts.
- (f) A traffic impact study, as described in Sec. 18.07.09 shall be provided if any use permitted in the requested zoning district could generate 100 or more peak hour directional trips, or 1,000 or more vehicle trips per day. The traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district. The determination of representative uses shall

be made by the Planning Commission with input from Township staff and Consultants.

- (g) A conceptual plan at a scale not less than 1" = 100', demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, lot coverage, building spacing, parking, loading, drainage, general landscaping, wetland buffers, access spacing, any requested service drives and other site design factors; while the anticipated use can be shown, an illustration of the maximum development permitted under the requested zoning shall also be provided.
- (h) A written description of how the requested rezoning meets Sec. 22.04 "Criteria for Amendment of the Official Zoning Map."

22.02.03 In the case of an amendment to the Official Zoning Map, the site must be staked to clearly indicate the location of the requested amendment. Flagged stakes shall be placed at each parcel corner.

22.02.04 In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description and indication of the purpose of the proposed amendment shall accompany the application form.

22.02.05 An applicant for a rezoning may voluntarily offer certain conditions and limitations as part of the rezoning application (hereafter referred to as "zoning agreement"). The offer for a zoning agreement shall be submitted at the time the rezoning application is filed or in response to comments received at the Planning Commission public hearing. An election to file a conditional rezoning with a zoning agreement shall be in writing and shall be pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), and section 22.05 below. When necessary, the zoning agreement shall also include and incorporate, by reference, a conceptual site plan. This plan shall not replace the requirement for a site plan review and approval as outlined in article 18, which shall be conducted following the Township Board's approval of the conditional rezoning. The Township may voluntarily accept the offer for a zoning agreement, but shall not be obligated to accept such offer. (as amended 12/31/06)

Sec. 22.03 **AMENDMENT PROCEDURE; PUBLIC HEARING AND NOTICE**

22.03.01 Upon initiation of an amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of public hearing shall be provided for in accordance with section 21.05.

- (a) If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, the Township shall give a notice of the proposed rezoning in the same manner as required under section 21.05.
- (b) If eleven (11) or more properties are proposed for rezoning, or if an amendment is proposed to the text of the ordinance, the Township shall give a notice of the proposed rezoning shall be published in a newspaper, as required under section 21.05, and the individual property notices in subsection 21.05.02(b), and (c) shall not be required and no individual addresses of properties are required to be listed under section 21.05.01(b).

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- 22.03.02 Where the applicant has offered a conditional rezoning, the zoning agreement may be offered or amended in response to comments raised during the public hearing; provided, that any amended or additional agreements are voluntarily offered by the applicant and they are in direct response to discussion at the public hearing.
- 22.03.03 Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Township Board. In the case of an amendment to the Official Zoning Map, the Planning Commission shall consider the criteria contained in Section 22.04, below, in making its finding and recommendation.
- 22.03.04 Where the applicant has offered a conditional rezoning, the zoning agreement shall be reviewed by the Township attorney prior to the Planning Commission making a recommendation to the Township Board on the conditional rezoning application. The Township attorney shall determine that the zoning agreement conforms to the requirements of section 22.05 below and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and shall confirm that the zoning agreement is in a form acceptable for recording with the County Register of Deeds.
- 22.03.05 Following receipt of the findings and recommendation of the Planning Commission, the Township Board shall consider the proposed amendment.
- (a) The Township Board shall consider the amendment by conducting a first reading of the amendment at a meeting of the Township Board. The Township Board shall then conduct a second reading of the amendment at a subsequent meeting of the Township Board and consider the amendment for adoption, in accordance with PA 359 of 1947, as amended.
 - (b) In the case of an amendment to the text of this Ordinance, the Township Board may modify or revise the proposed amendment as recommended by the Planning Commission, prior to enactment.
 - (c) In the case of an amendment to the Official Zoning Map, the Township Board shall approve or deny the amendment, based on its consideration of the criteria contained in Section 22.04, below. (as amended 8/24/07)
- 22.03.06 If a conditional rezoning has been offered by the applicant and recommended for approval by the Planning Commission, the Township Board may approve the zoning agreement as a condition to the rezoning if it meets all requirements of section 22.05 below. If an applicant proposes a zoning agreement after the Planning Commission has made a recommendation on the rezoning request, the Township Board shall first remand the application back to the Planning Commission to review the agreement and resubmit a recommendation to the Township Board. The zoning agreement 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. All of the following shall apply to a rezoning that was conditionally approved along with a zoning agreement:
- (a) The zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the zoning agreement. The zoning map shall specify the new district, plus a small letter “a” followed by a number to indicate that the property is subject to a zoning agreement and referencing the agreement number (e.g., “LDR-a1”).

- (b) The Township shall maintain a listing of all properties subject to zoning agreements. The approved zoning agreement shall be recorded by the applicant with the County Register of Deeds.
- (c) Unless extended by the Township Board for good cause, the zoning agreement and associated conditional rezoning shall expire two (2) years after adoption of the conditional rezoning and zoning agreement, unless substantial construction on the approved development of the property, pursuant to building and other required permits issued by the Township, commences within the two (2) year period and proceeds diligently towards completion.
- (d) In the event that substantial construction on the approved development has not commenced within two (2) years, the zoning agreement shall be void and of no effect.
- (e) Notwithstanding the above, if the property owner applies in writing for an extension of the zoning agreement at least thirty (30) days prior to the expiration date, the Township Board may, after recommendation by the Planning Commission, grant an extension of up to one (1) year.
- (f) Should the zoning agreement become void, all development on the subject property shall cease, and no further development shall be permitted. The Township may withhold or revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
- (g) If the zoning agreement becomes void as outlined above, the conditional rezoning shall be automatically revoked and the land shall revert back to its original zoning classification as set forth in MCL 125.286i. (as amended 12/31/06)

Sec. 22.04 **CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP**

In considering any petition for an amendment to the Official Zoning Map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision:

- 22.04.01 Consistency with the goals, policies and future land use map of the Genoa Township Master Plan, including any subarea or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
- 22.04.02 Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
- 22.04.03 The ability to the site to be reasonably developed with one (1) of the uses permitted under the current zoning.
- 22.04.04 The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

- 22.04.05 The capacity of Township infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township.
- 22.04.06 The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned to accommodate the demand.
- 22.04.07 Where a rezoning is reasonable given the above criteria, a determination the requested zoning district is more appropriate than another district or amending the list of permitted or Special Land Uses within a district.
- 22.04.08 The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.

Sec. 22.05 **ZONING AGREEMENTS FOR CONDITIONAL REZONINGS**

- 22.05.01 An applicant for a rezoning may voluntarily offer a zoning agreement as a condition for rezoning. An election to file a conditional rezoning with a zoning agreement shall be pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006) and this article. The conditions set forth in the zoning agreement must be voluntary and equally or more restrictive than the regulations that would otherwise apply under the proposed zoning district. The zoning agreement shall be a written agreement that is approved and executed by the applicant and the Township and recorded with the County Register of Deeds. When necessary, the zoning agreement shall also include and incorporate, by reference, a site plan. This plan shall not replace the requirement for a site plan as outlined in article 18. The zoning agreement must be voluntarily offered by the applicant and the Township shall not have the authority to require modification to a zoning agreement without the consent of the petitioner; provided, the Township shall not enter into a zoning agreement that is not found acceptable to the Township Board.
- 22.05.02 The zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features. The zoning agreement may not authorize uses or developments of greater intensity or density, or which are not permitted in the proposed zoning district; nor may a zoning agreement permit variances from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district. The zoning agreement may include conditions related to the use and development of the property that are necessary to:
- (a) Serve the intended use of the property, such as improvements, extension, widening, or realignment of streets, utilities, storm drains, or other infrastructure serving the site;
 - (b) Minimize the impact of the development on surrounding properties, such as landscape screening above and beyond minimum requirements or design elements to create transition to adjoining uses; and
 - (c) Preserve natural features, historic resources, and open space.

- 22.05.03 In addition to any limitations on use or development of the site, preservation of site features or improvements described in section 22.05.02 above, the zoning agreement shall also include the following:
- (a) Acknowledgement that the zoning agreement was proposed voluntarily by the applicant and that the Township relied upon the agreement and may not grant the rezoning but for the conditions offered in the zoning agreement.
 - (b) Acknowledgement that the zoning agreement and its terms and conditions are authorized by all applicable state and federal law and constitution, and that the zoning agreement is valid and was entered into on a voluntary basis.
 - (c) Agreement and understanding that the property shall only be developed and used in a manner that is consistent with the zoning agreement.
 - (d) Agreement and understanding that the rezoning is conditioned upon obtaining site plan approval under article 18, or subdivision approval under the Township Subdivision Control Ordinance and obtaining other necessary approvals required by the Township and all applicable county, and state agencies.
 - (e) Agreement and understanding that no part of the zoning agreement shall permit any activity, use, or condition that would otherwise not be permitted in the new zoning district.
 - (f) Agreement and understanding that the approval of the conditional rezoning and the zoning agreement shall be binding upon and inure to the benefit of the property owner and the Township, and also their respective heirs, successors, assigns, receivers or transferees.
 - (g) Agreement and understanding that, if a rezoning with a zoning agreement becomes void in accordance with this section, that no further development shall take place and the land shall revert back to its original zoning classification.
 - (h) A legal description of the land to which the agreement pertains.
 - (i) Any other provisions as are agreed upon by the parties.
- 22.05.04 Any uses proposed as part of a zoning agreement that would otherwise require site plan approval or special land use approval shall be subject to the applicable review and approval requirements of articles 18 and 19.
- 22.05.05 Nothing in the zoning agreement, nor any statement or other provision, shall prohibit the Township from later rezoning all or any portion of the land that is the subject of the zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act (Public Act 110 of 2006).
- 22.05.06 Failure to comply with the zoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this ordinance, and further use of the property may be subject to legal remedies available to the Township. (as amended 12/31/06)

Sec. 22.06 **AMENDMENTS REQUIRED TO CONFORM 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 published, without necessity of a public hearing or referral thereof to any other board or agency.