

# **ARTICLE 12**

## **PROCEDURES AND STANDARDS**

### **Section 12.01 Site Plan Review.**

#### **A. Purpose.**

The site plan approval procedures of this Section are instituted to provide an opportunity for the London Township Planning Commission and the Board of Trustees (Board) to review the proposed development, alteration, and use of a site in relation to drainage, pedestrian and vehicular circulation, parking, structural relationships, utilities, screening, accessibility, and other site design elements. The purpose of this Section is to establish procedures and standards that provide a consistent method of review of site plans, and to ensure full compliance with the standards contained in this Ordinance and other applicable Codes and Ordinances.

Flexible review standards have been established to ensure that the type of review and amount of required information is proportional to the project's scale and use intensity. It is the further purpose of this Article to protect natural resources, minimize adverse impacts on adjoining or nearby uses and land, encourage cooperation and consultation between the Township and the applicant, and facilitate development in accordance with the Township's Master Plan.

#### **B. Site Plan Approval Required.**

The following development projects and uses shall require submission and approval of a site plan prior to established, construction, expansion or structural alteration of any structure or use:

1. All special approval uses, subject to the provisions of Section 12.02 (Special Uses).
2. All structures and uses in the AG-1 (Agricultural-Conservation), AG-2 (Agricultural-Reserve), R-1 (Rural Residential), R-2 (Urban Residential), and MHP (Manufactured Housing Park) Districts, other than:
  - a. Farming and active agricultural uses, as defined in Section 18.02 (Definitions).
  - b. One (1) single-family dwelling and customary accessory structures on a single residential lot of record.

- c. Family child day care homes, as licensed by the State of Michigan.
  - d. Establishment of a home occupation listed in Section 5.204 (Home Occupations) as a permitted accessory use.
  - e. Essential service and public utility facilities.
3. All structures and uses in the FP (Flood Plain) District located within 500 feet of the 100-year floodplain, as defined by the Federal Emergency Management Agency (FEMA), National Flood Insurance Program, and Michigan Department of Environmental Quality (MDEQ).
  4. All structures and uses in the C-1 (Convenience Commercial) and C-2 (Special Commercial) Districts.
  5. All structures and uses in the I-R (Industrial Research) and PSP (Public/Semi-Public Services) Districts.
  6. Construction, expansion or alteration of a private road.
  7. Construction, expansion or alteration of a residential open space development, as defined in Section 18.02 (Definitions), subject to the provisions of Section 11.01 (Residential Open Space Development Option).
  8. Construction, or expansion of farming, landscaping or recreation ponds, subject to the provisions of section 5.605 (Ponds for Landscaping and Recreation).
  9. Construction, expansion or alteration of a manufactured housing park, as defined in Section 18.02 (Definitions), shall be subject to preliminary plan approval in accordance with the procedures and standards of Section 5.205 (Manufactured Housing Parks).
  10. Construction, expansion or alteration of a condominium development, as defined in Section 18.02 (Definitions), shall be subject to condominium site plan approval in accordance with the procedures and standards of Article 13 (Condominium Regulations).
  11. Construction, expansion or alteration of a planned unit development (PUD) project shall be subject to development plan approval in accordance with the procedures and standards of Article 14 (Planned Unit Development (PUD) District).
  12. Construction, expansion or alteration of a wireless communications facility, as defined in Section 18.02 (Definitions), shall be subject to the approval in

accordance with the procedures and standards of Section 11.02 (Wireless Communications Facilities).

### C. **Site Plan Review Procedure.**

Site plans shall be reviewed in accordance with the following:

1. **Application.** The owner of an interest in land for which site plan approval is sought and the owner's designated agent, shall submit a completed application form and sufficient copies of a site plan to the Township, along with appropriate review fees, as determined by Township Board. Any application or site plan that does not satisfy the information requirements of this Section shall be considered incomplete, and shall be returned to the applicant.
2. **Technical review.** Prior to Planning Commission consideration, the Zoning Administrator shall distribute copies of the site plan and application to designated Township officials and the Township Consultant for review and comment. The Zoning Administrator or Planning Commission may also distribute copies of the site plan and application to other local agencies or departments with jurisdiction for comment on any problems the plans might pose.
3. **Planning Commission consideration of the site plan.** The Planning Commission shall review the site plan, together with any reports and recommendations from Township Consultants, and other reviewing agencies, and can table, deny, or make a recommendation to the Township Board to approve the site plan as follows:
  - a. **Tabling.** Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  - b. **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied.
  - c. **Recommendation for Approval.** Upon determination that a site plan is in compliance with the standards of this Ordinance, the Planning Commission may make a recommendation to the Township Board for approval.
4. The Board shall make a determination based on the requirements of this Ordinance and the standards of Section 12.01L (Standards for Site Plan

Approval). The Board is authorized to table, approve, approve subject to conditions or deny the site plan as follows:

- a. **Tabling.** Upon determination by the Board that a site plan is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Board may postpone consideration until a later meeting.
  - b. **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied.
  - c. **Approval.** Upon determination that a site plan is in compliance with the standards of this Ordinance, the site plan shall be approved.
  - d. **Approval subject to conditions.** The Board may approve a site plan, subject to any conditions necessary to address necessary modifications; ensure that public services and facilities can accommodate the proposed use; protect significant site features; ensure compatibility with adjacent land uses; or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances, or approvals from other agencies.
5. **Recording of site plan action.** Board action on the site plan shall be recorded in the Board meeting minutes, stating the name and location of the project, most recent plan revision date, and conditions or grounds for the Board's action.
- a. After the Board has taken final action on a site plan, the Zoning Administrator shall clearly mark three (3) copies of the site plans APPROVED or DENIED, as appropriate, with the date that action was taken and conditions of approval.
  - b. One (1) marked copy will be returned to the applicant, the second copy will be given to the Building Department, and the third copy shall remain on file at the Township offices per State of Michigan retention guidelines.

#### **D. Outside Agency Permits or Approvals**

The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to the start of development or construction on the site.

## **E. Construction Plans.**

Where detailed construction or engineering plans are required by the Township, Monroe County or other agency with jurisdiction, the applicant shall submit a copy of such plans to the Zoning Administrator for review. The Zoning Administrator or designated Township consultants shall verify that the site design and improvements shown on the construction or engineering plans are consistent with the approved site plan, except for changes that do not materially alter the approved site design, or that address any conditions of site plan approval.

Construction or engineering plans that are not consistent with the approved site plan shall be subject to review and approval by the Board as an amended site plan, prior to the start of development or construction on the site.

## **F. Approval of Phased Developments.**

The Board may grant approval for site plans with multiple phases, subject to the following:

1. The site design and layout for all phases and outlots be shown on the site plan to ensure proper development of the overall site.
2. Improvements associated with each phase shall be clearly identified on the site plan, along with a timetable for development. Development phases shall be designed so that each phase will function independently of any improvements planned for later phases.
3. Each future phase shall be subject to a separate site plan review by the Planning Commission and Board, and shall be required to meet all applicable Ordinance standards effective at the time of such review.

## **G. Site Plan Resubmission**

A site plan that has been denied may be revised by the applicant to address the reasons for the denial and then resubmitted for further consideration. The resubmitted site plan shall be subject to the same requirements, review fees, and approval procedures as a new application for site plan approval.

## **H. Expiration of Site Plan Approval.**

Site Plans shall expire 365 days after the date of approval, unless the construction plan has commenced.

Upon written request received by the Township prior to the expiration date, the Board may grant one (1) extension of final approval for up to 180 days, provided that site

conditions have not changed in a way that would affect the character, design or use of the site, and that the approved site plan remains in conformance with all applicable provisions of this Ordinance.

#### **I. Rescinding Site Plan Approval.**

Site plan approval may be rescinded by the Board upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of site plan or special use approval. Such action shall be subject to the following:

1. **Public Hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 12.03 (Public Hearing Procedures), at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Board with regard to the rescission shall be made and written notification provided to said owner or designated agent.

#### **J. Revisions to Approved Site Plan.**

Minor revisions to an approved site plan may be administratively reviewed by the Zoning Administrator, provided that such changes do not materially alter the approved site design, intensity of use or demand for public services. Revisions to an approved site plan that are not considered by the Zoning Administrator to be minor, shall be reviewed by the Board as an amended site plan.

#### **K. Compliance with an Approved Site Plan.**

It shall be the responsibility of the landowner, and the owner or operator of the use(s) for which site plan approval has been granted, to develop, improve and maintain the site, including the use, structures and all site elements in accordance with the approved site plan and all conditions of approval, until the property is razed, or a new site plan is approved. Failure to comply with the provisions of this Section shall be a violation of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

1. To ensure compliance with this Ordinance, the approved site plan, and any conditions of site plan approval, the Board or Zoning Administrator may require that a irrevocable performance guarantee be deposited with the Township Treasurer, subject to the standards of Section 1.08 (Fees and Performance Guarantees). The amount of the performance guarantee shall be sufficient to ensure faithful completion of the improvements associated with a project for which site plan approval is sought, as determined by the Board.

2. The Zoning Administrator or designee shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall be considered a violation of this Ordinance and shall constitute grounds for the Board to rescind site plan approval.

#### **L. Standards for Site Plan Approval.**

The following criteria shall be used as a basis upon which site plans will be reviewed and approved, approved with conditions, or denied:

1. **Adequacy of information.** The site plan includes all required information in a complete and understandable form, provides an accurate description of the proposed uses, and complies with all applicable Ordinance requirements.
2. **Site appearance and coordination.** The site is designed in a manner that promotes the normal and orderly development of surrounding lands, and all site design elements are harmoniously organized in relation to topography, adjacent facilities, traffic circulation, building orientation, and pedestrian access.
3. **Preservation of site features.** The site design conserves natural features to the extent feasible. Such features may include wetlands, topography, tree-rows and hedgerows, wooded areas, and significant individual trees.
4. **Access and circulation.** Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site. In addition, adequate pedestrian access has been provided, which is in compliance with barrier-free access standards.
5. **Parking and loading.** Off-street parking lots and loading areas are arranged and located to accommodate the intensity of proposed uses, and minimize conflicts with adjacent uses, and promote shared-use of common facilities where feasible.
6. **Landscaping and screening.** Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from adjacent residential uses and public rights-of-way.
7. **Exterior lighting.** All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security.

8. **Impact upon public services.** The impact upon public services (including utilities, streets, police and fire protection, public schools and public sidewalks/pathways) will not exceed the existing or planned capacity of such services.
9. **Drainage and soil erosion.** Adjoining lakes, rivers, streams, lots, and road rights-of-way will not be adversely impacted by stormwater runoff and sedimentation.
10. **Emergency access and vulnerability to hazards.** All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed existing or planned emergency response capabilities.

**M. Required Information for Site Plans**

The following information shall be included with all site plan review applications, except where the Planning Commission determines that certain information is not necessary or applicable to the review:

Minimum Required Site Plan Information	Planning Commission Review
<b>SITE PLAN DESCRIPTIVE INFORMATION</b>	
Name, address, telephone and facsimile numbers of the applicant (and landowner, if different from applicant) and firm or individual preparing the site plan; and the property location (address, lot number, tax identification number).	<input type="checkbox"/>
Existing and proposed use(s) and existing zoning of the land and surrounding parcels (including across road rights-of-way).	<input type="checkbox"/>
Address, legal description, and tax identification number of the parcel, with the gross and net land area.	<input type="checkbox"/>
<b>SITE PLAN DATA AND NOTES</b>	
Site plans shall be drawn to an engineer's scale appropriate for a sheet size of at least 24 by 36 inches. If a large development is shown in sections on multiple sheets, then one overall composite sheet shall be provided.	<input type="checkbox"/>
Location map with north-arrow.	<input type="checkbox"/>
Size and dimensions of proposed structures, including gross and usable floor area, number of stories, and overall height.	<input type="checkbox"/>
Calculations for parking, residential density or other Ordinance requirements.	<input type="checkbox"/>



Minimum Required Site Plan Information	Planning Commission Review
<b>EXISTING CONDITIONS</b>	
Location of soil types and existing drainage courses, floodplains, lakes, streams, drains, and wetlands, with surface drainage flow directions.	<input type="checkbox"/>
Dimensions of all property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding.	<input type="checkbox"/>
Existing site features, including significant natural and historical features, structures, driveways, fences, walls, signs, and other improvements; with notes regarding their preservation or alteration.	<input type="checkbox"/>
<b>SITE PLAN DETAILS</b>	
Location, dimensions, setback distances, and use(s) of all proposed improvements.	<input type="checkbox"/>
Locations and descriptions of all existing and proposed easements and rights-of-way for utilities, access, and drainage.	<input type="checkbox"/>
Identification of areas involved in each separate phase, if applicable.	<input type="checkbox"/>
An exterior lighting plan with all existing and proposed lighting locations, heights from grade, specifications, lamps types, and methods of shielding.	<input type="checkbox"/>
Locations and methods of screening for any waste receptacles; ground-mounted generators, transformers, and mechanical (HVAC) units; and similar devices.	<input type="checkbox"/>
Outdoor sales, display or storage locations and method of screening, if applicable.	<input type="checkbox"/>
<b>BUILDING DETAILS</b>	
Building façade elevations for any proposed principal building, drawn to an appropriate scale and indicating type and color of building materials.	<input type="checkbox"/>
<b>ACCESS AND CIRCULATION</b>	
Dimensions and centerlines of existing and proposed rights-of-way, names of abutting streets, and the dimensions and type of paving materials for all roads, parking lots, curbs, sidewalks, and other paved surfaces.	<input type="checkbox"/>
Locations and dimensions of vehicle access points, and distances between adjacent or opposing driveways and street intersections.	<input type="checkbox"/>
Parking space and maneuvering aisle dimensions, pavement markings, traffic control signage, designation of fire lanes, and location of loading areas.	<input type="checkbox"/>
<b>SCREENING AND LANDSCAPING</b>	
Landscape plan, including location, size, quantity and type of proposed shrubs, trees, ground cover (including grass) and other live plant materials, and the location, size and type of any existing plant materials that will be preserved.	<input type="checkbox"/>

Minimum Required Site Plan Information	Planning Commission Review
Planting list for proposed landscape materials, with quantities, sizes, and heights of proposed plant materials; botanical and common names; and methods of installation.	<input type="checkbox"/>
Landscape maintenance plan, including notes regarding replacement of dead or diseased plant materials.	<input type="checkbox"/>
Proposed fences, walls or other screening devices, including typical cross-section, materials and height above grade.	<input type="checkbox"/>
<b>UTILITIES, DRAINAGE, AND ENVIRONMENTAL INFORMATION</b>	
Grading plan, with existing and proposed topography at a minimum of two (2) foot contour levels, drainage patterns and a general description of grades within 100 feet of the site to indicate stormwater runoff.	<input type="checkbox"/>
<b>ADDITIONAL REQUIRED INFORMATION</b>	
Other information as requested by the Zoning Administrator or Planning Commission to verify that the site and use are in accordance with the purpose and intent of this Ordinance and the Township's Master Plan.	<input type="checkbox"/>

## Section 12.02 Special Uses.

### A. Purpose.

This Section provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. Special uses include those uses that:

1. Serve an area, interest or purpose that extends beyond the borders of the Township;
2. Create particular problems of control in relation to adjoining uses or districts;
3. Have detrimental effects upon public health, safety or welfare; or
4. Possess other unique characteristics that prevent such uses from being permitted "by right" as a principal use in a particular zoning district.

This Section is intended to provide a consistent and uniform method for review of special use applications, ensure full compliance with the standards contained in this Ordinance, achieve efficient use of land, prevent adverse impacts on neighboring

properties and districts, and facilitate development in accordance with the objectives of the Master Plan.

## **B. Application Requirements.**

Special use applications shall be submitted in accordance with the following:

1. **Eligibility.** The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which special use approval is sought, or by the owner's designated agent. The applicant or agent shall be present at all scheduled review meetings. Applications that are found by the Zoning Administrator to be incomplete or inaccurate shall be returned to the applicant.
2. **Application.** Special use applications submitted to the Township shall include the following information:
  - a. Contact information for the applicant and landowner, and proof of ownership. If the property is leased by the applicant, the owner's signed and dated authorization for the application shall be provided.
  - b. Address, location and tax identification number of the parcel.
  - c. A detailed description of the proposed use.
  - d. A site plan, if required by Section 12.01 (Site Plan Review).
  - e. Appropriate review fees, as determined by the Board.
  - f. Any other information deemed necessary by the Zoning Administrator or Township Consultant to determine compliance with this Ordinance.

## **C. Special Use Review Procedure**

Special use applications shall be reviewed in accordance with the following procedures:

1. **Coordination with site plan review.** A site plan associated with a special use shall not be approved unless the special use has first been approved. The Planning Commission may, at its discretion, consider special use and site plan applications at the same meeting.
2. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to the Township Consultant for review and comment. The Zoning Administrator may also submit the application materials to other Township agencies for review.

3. **Public hearing.** A public hearing shall be held for all special uses in accordance with Section 12.03 (Public Hearing Procedures).
4. **Planning Commission consideration.** Subsequent to the hearing, the Planning Commission shall review the application for special use, together with any reports and recommendations from Township officials, Township consultants, and other reviewing agencies, along with any public comments. The Planning Commission shall then make a recommendation to the Township Board.
5. The Board shall make a determination based on the requirements of this Ordinance and the standards contained in Section 12.02H (Standards for Special Use Approval). The Board is authorized to table, approve, approve subject to conditions or deny the special use as follows:
  - a. **Tabling.** Upon determination by the Board that a special use application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Board may postpone consideration until a later meeting.
  - b. **Denial.** Upon determination that a special use application is not in compliance with the provisions of this Ordinance, including Section 12.02H (Standards for Special Use Approval), or would require extensive modifications to comply with said standards and regulations, the special use shall be denied. If a special use is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for the Board to deny the special use.
  - c. **Approval.** The special use may be approved by the Board upon determination that it is in compliance with the provisions of this Ordinance, including Section 12.02H (Standards for Special Use Approval). Upon approval, the special use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval, and any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.
  - d. **Approval subject to conditions.** The Board may approve a special use subject to reasonable conditions:
    - (1) Designed to protect natural resources, the health, safety, welfare, and social and economic well-being of users or patrons of the use under consideration, residents and landowners immediately adjacent to the proposed use, or the community as a whole; or

- (2) Related to the valid exercise of the police power, and the impacts of the proposed use; or
  - (3) Necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the special use under consideration, and necessary for compliance with those standards.
- e. **Recording of special use action.** The Board action on the special use shall be recorded in the Board meeting minutes, stating the name, description, and location of the proposed use; address and tax identification number of the parcel; and the grounds for the Board's action. The Zoning Administrator shall keep one (1) copy of the written record on file in the Township, and shall forward one (1) copy to the applicant as evidence of special use approval and also give the effects of the approval.
- f. **Effect of Approval.** Special Use approval runs with the land as long as the use remains as approved. A change of tenant or owner will not affect the Special Approval.

**D. Resubmission after Denial.**

A special use application that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.

**E. Appeals of Special Use Decisions.**

The Zoning Board of Appeals shall not have the authority to consider appeals of special use determinations by the Board.

**F. Expiration of Special Use Approval.**

Special use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the construction plan associated with the special use has been submitted for review. Special use approval shall also expire upon expiration of the approved construction plan associated with a special use.

Upon written request received by the Township prior to the expiration date, the Board may grant one (1) extension of up to 180 days, provided that the approved special use conforms to current Zoning Ordinance standards.

## **G. Rescinding Special Use Approval.**

Approval of a special use may be rescinded by the Board upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans, or conditions of site plan or special use approval. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 12.03 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the land or structure(s) for which special use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.

## **H. Standards for Special Use Approval.**

Approval of a special use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:

1. **A documented need exists for the proposed use.** A documented need exists for the proposed use within the community.
2. **Compatibility with adjacent uses.** The special use is compatible with adjacent uses and the existing or intended character of the zoning district and area. The use will not have an adverse impact upon or interfere with the development, use or enjoyment of adjacent properties, or the orderly development of the neighborhood.
3. **Compatibility with the Master Plan.** The special use location and character is consistent with the general principles, goals, objectives, and policies of the adopted Master Plan.
4. **Compliance with applicable regulations.** The proposed special use is in compliance with all applicable Ordinance provisions.
5. **Impact upon public services.** The impact of the special use upon public services will not exceed the existing or planned capacity of such services; including utilities, roads, police and fire protection services, drainage structures, refuse disposal, and availability or capacity of water and sewage facilities.

6. **Traffic impacts.** The special use is designed and located in a manner that minimizes any adverse traffic impacts caused or exacerbated by the use.
7. **Environmental and public health, safety, and welfare impacts.** The location, design, activities, processes, materials, equipment, and operational conditions of the special use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage or other adverse impacts as set by state, federal or other agencies with jurisdiction.
8. **Isolation of existing uses.** Approval of the special use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses.

#### **I. Compliance with Special Use Approval.**

It shall be the responsibility of the owner of the property and the operator of the use for which special use approval has been granted to develop, improve, operate and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of special use approval until the use is discontinued. Failure to comply with the provisions of this Section shall be a violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

The Zoning Administrator or designee may make periodic investigations of developments for which a special use has been approved. Noncompliance with Ordinance requirements or conditions of approval shall constitute grounds for the Board to rescind special use approval.

### **Section 12.03 Public Hearing Procedures.**

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended), and the following:

#### **A. Public Notice.**

Notice of the public hearing shall be posted by the Zoning Administrator at the place the hearing will be held; published in a newspaper of general circulation in the Township, and sent by mail or personal delivery to the applicant, owner(s) of property for which approval is being considered, all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and all occupants of

structures within 300 feet of the boundary of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

1. **Timing of notice publication.** The Zoning Administrator shall publish the required notice in a newspaper of general circulation in the Township, as follows:
  - a. **Notice Publication.** The notice shall be published once at least fifteen (15) days before the date the application will be considered for approval.
  
2. **Minimum notice contents.** The notice shall include:
  - a. Indicate the property that is subject of the request including all road addresses within the property. If there is no address, the parcel Identification number shall be used as identification for the property.
  - b. The nature of the request
  - c. The time and place of the hearing and the body conducting the hearing
  - d. Indicate when and where written comments will be received concerning the request.
  
3. **Discretionary notice.** The Township may, at its discretion, post this notice at other public-accessible locations, including but not limited to Township Hall, community bulletin boards, and the Internet. The Township Board may also establish a policy to consistently send this notice by mail to persons located more than 300 feet from the boundary of the property in question, provided that the applicant shall not be required to pay for the additional mailing expenses.

## **B. Pre-Hearing Examination.**

Upon reasonable request, any person may examine the application and all other documents on file with the Township pertaining to the subject and purpose of the hearing. Any person shall be entitled to copies of such application and documents upon reasonable request and payment of fees as established by the Township Board to cover the cost of making such copies.

## **C. Right to Submit Written Statements.**

Any person may submit written comments about the subject and purpose of the hearing prior to a hearing or within such time as may be allowed by the hearing body following such hearing. Such statements shall be made a part of the public record of the hearing.



**D. Timeframe for Hearings.**

The public hearing shall be scheduled for a date not more than 90 calendar days after receipt of a complete and accurate application by the body charged with conducting the hearing, unless a further time is agreed upon by the parties concerned.

**E. Rights of All Persons.**

Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.

**F. Adjournment.**

The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing to a reasonable and fixed future date, time, and place for the purpose of giving further notice, accumulating further evidence or information for such other reasons that the body finds to be sufficient. Notice shall be provided of the adjourned hearing date, time, and place per Section 12.03A (Public Notice).

**G. Governance.**

All other matters pertaining to the conduct of hearings shall be governed by applicable provisions of this Ordinance, and the rules and procedures adopted by the body conducting the hearing.

**Section 12.04 Amendments.**

The Township Board may, after recommendation from the Planning Commission, amend, supplement or change the provisions of this Ordinance or Official Zoning Map. Such actions shall be consistent with the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended), and the following:

**A. Initiation of Amendment.**

Amendments to the provisions of this Ordinance may be initiated by the Township Board, Planning Commission, or Zoning Administrator, or by petition from one (1) or more residents or landowners of the Township. An amendment to the official Zoning Map (rezoning) may be initiated by the Township Board, Planning Commission, or Zoning Administrator, or by the titleholder for the property subject to the proposed

amendment. No fee shall be charged for amendments initiated by the Township Board, Planning Commission or Zoning Administrator.

## **B. Application.**

An amendment to this Ordinance (except those initiated by the Township Board, Planning Commission or Zoning Administrator), shall be initiated by submission of a complete and accurate application to the Township, along with the required fee established by Township Board. In the case of an amendment to the official Zoning Map, the following information shall accompany the application and fee:

1. A legal description and street address of the subject land, together with a survey and location map identifying the subject land in relation to surrounding properties.
2. The name and address of the landowner, and a statement of the applicant's interest in the subject land, if not the owner in fee simple title.
3. The existing and proposed zoning district designation of the subject land and surrounding properties.
4. A written description of how the requested amendment meets the criteria stated in this Section.

## **C. Amendment Review Procedure.**

Proposed amendments to this Ordinance or Official Zoning Map shall be reviewed in accordance with the following:

1. **Technical review.** Prior to Planning Commission review, the proposed amendment and application materials shall be distributed to appropriate Township officials and the Township Consultant for review and comment. The Zoning Administrator may also submit the application materials to other designated agencies for review.
2. **Public hearing.** A public hearing shall be held for all proposed amendments in accordance with Section 12.03 (Public Hearing Procedures).
3. **Planning Commission consideration and recommendation.** Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, the Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board.

In considering an amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the following factors in making its finding and recommendations:

- a. Consistency with the Master Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
  - b. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features.
  - c. Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
  - d. Capacity of available utilities and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Monroe County with unplanned capital improvement costs or other unplanned public expenses.
  - e. Capability of the road system to safely and efficiently accommodate the expected traffic generated by uses permitted in the zoning district(s).
  - f. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
  - g. The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.
  - h. The requested rezoning will not create an isolated or incompatible zone in the area.
  - i. Other factors deemed appropriate by the Planning Commission and Township Board.
4. **County Planning Commission review.** The Zoning Administrator shall forward a copy of the proposed amendment and the report and recommendation from the Township Planning Commission to the Monroe County Planning Commission for review and comment. The County Planning Commission shall have 30 days from the date of receipt from the Township to review the proposed amendment. If no

comments are received from the County within this period, the Zoning Administrator may presume that the County has waived its right for review.

5. **Township Board action.** The Zoning Administrator shall forward a copy of the proposed amendment, the report and recommendation from the Township Planning Commission, and any recommendation from the County Planning Commission to the Township Board for consideration and final action.
  - a. The Township Board may adopt, amend, or reject the proposed amendment, or may refer the amendment back to the Township Planning Commission for revision or further consideration.
  - b. The Township Board may, at its discretion, hold additional public hearings on the proposed amendment, provided that notice of the hearing shall be published once in a newspaper of general circulation in the Township not less than five (5) and not more than 15 days before the hearing date.

#### **D. Re-Application.**

Whenever an application for an amendment to this Ordinance has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Township Consultant determines that one or more of the following conditions has been met:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
2. New or additional information is available that was not available at the time of the review.
3. The new application is materially different from the prior application.

### **Section 12.05 Conditional Rezoning Amendments.**

The Township recognizes that, under certain instances, it may be to the Township's and the landowner's advantage to consider rezoning of certain lands if the application is accompanied by a site plan and subject to certain conditions. Accordingly, it is the intent of this Section to provide a conditional rezoning option to landowners in accordance with the provisions of Section 16i of the Township Zoning Act (P.A. 184 of 1943, as amended).

This option is intended to accomplish the objectives of the Zoning Ordinance through a rezoning review process that applies site-planning criteria to achieve integration of the development project and the surrounding area. Conditional rezoning represents a legislative amendment to the Zoning Ordinance. Such actions shall be consistent with Section 16i of the Township Zoning Act (P.A. 184 of 1943, as amended), and the following:

**A. Eligibility.**

A landowner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. To be eligible for review as a conditional rezoning, the landowner shall, as part of an application for rezoning of land to a new zoning district classification, voluntarily offer certain site-specific regulations or conditions that are equally or more restrictive than the regulations of this Ordinance for the proposed zoning district.

**B. Pre-Application Meeting.**

Prior to submitting a conditional rezoning application, the applicant shall meet with the Township Consultant and Township Zoning Administrator for preliminary review of the proposal and the review process. The applicant shall pay the expenses incurred by the Township for this meeting.

**C. Application Requirements.**

A conditional rezoning amendment shall be initiated by submission of a complete and accurate application to the Township, along with the required fee established by Township Board. Conditional rezoning applications shall be subject to the following requirements:

1. **Timing of application.** A landowner may submit an application for conditional rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The applicant may, through written notice to the Township, amend the conditional rezoning application at any point during the review process.
2. **General information.** In the case of any amendment to the official Zoning Map, the following information shall accompany the application and fee:
  - a. A legal description and street address of the subject land, together with a survey and location map identifying the subject land in relation to surrounding properties.

- b. The name and address of the landowner, and a statement of the applicant's interest in the subject land, if not the owner in fee simple title.
  - c. The existing and proposed zoning district designation of the subject land and surrounding properties.
  - d. A written description of how the requested amendment meets the criteria stated in this Section.
3. **Additional information for a conditional rezoning application.** The conditional rezoning application shall include the following additional information:
- a. **Conditional rezoning plan.** The applicant shall provide a conditional rezoning plan, with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section. The conditional rezoning plan shall not replace the requirements for site plan, subdivision or condominium approval under this Ordinance.
  - b. **Rezoning Conditions.** Rezoning conditions shall be proposed in writing by the applicant, subject to the following:
    - (1) **Permitted conditions.** Rezoning conditions may include some or all of the following:
      - (a) The location, size, height, and setbacks of buildings, structures, and improvements.
      - (b) The maximum density or intensity of development (e.g., units per acre, maximum usable floor area, hours of operation, etc.).
      - (c) Measures to preserve natural resources or features.
      - (d) Facilities to address stormwater drainage and water quality using best management practices.
      - (e) Facilities to address traffic issues, such as through road paving or other road improvements.
      - (f) Farmland or open space preservation provisions.
      - (g) Minimum landscaping, buffering and screening provisions.
      - (h) Enhanced screening, beyond that required by this Ordinance.

- (i) Building design, materials, lighting and sign criteria.
  - (j) Permissible and prohibited uses of the land.
  - (k) Measures to protect the rural viewshed, which is an undeveloped area adjacent to the road right-of-way having a minimum undisturbed depth of 300 feet, where existing wetlands, woodlands, farmlands or scenic vistas are preserved.
  - (l) Reclamation and reuse of land, where previous use of land causes severe development difficulties or blight.
  - (m) Other conditions as deemed important to the development by the applicant.
- (2) **Prohibited conditions.** Such rezoning conditions shall not:
- (a) Authorize uses or development of greater intensity or density than are permitted in the district proposed by the rezoning.
  - (b) Authorize uses or development expressly or implicitly prohibited in the district proposed by the rezoning.

#### **D. Review and Approval Procedures.**

After the completed application and all required supporting materials have been received and fees paid, the proposed conditional rezoning amendment and application materials shall be reviewed in accordance with the following procedures:

1. **Technical review.** Prior to Planning Commission consideration, the proposed conditional rezoning amendment and application materials shall be distributed to appropriate Township officials and the Township Consultant for review and comment. The Zoning Administrator may also submit the application materials to other designated agencies for review.
2. **Public hearing.** A public hearing shall be held for the proposed conditional rezoning amendment in accordance with Section 12.03 (Public Hearing Procedures).
3. **Planning Commission review and recommendation.** Subsequent to the hearing, the Planning Commission shall review the proposed conditional rezoning amendment, together with any reports and recommendations from staff, the Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors and shall report its findings and recommendation in writing to the Township Board.

4. **County Planning Commission review.** The Zoning Administrator shall forward a copy of the proposed conditional rezoning amendment and the report and recommendation from the Township Planning Commission to the Monroe County Planning Commission for review and comment. The County Planning Commission shall have 30 days from the date of receipt from the Township to review the proposed conditional rezoning amendment. If no comments are received from the County within this period, the Zoning Administrator may presume that the County has waived its right for review.
5. **Township Board action on the conditional rezoning amendment.** The Zoning Administrator shall forward a copy of the proposed conditional rezoning amendment, the report and recommendation from the Township Planning Commission, and any recommendation from the County Planning Commission to the Township Board for consideration and final action:
  - a. **Additional hearings.** The Township Board may, at its discretion, hold additional public hearings on the proposed conditional rezoning amendment, provided that notice of the hearing shall be published once in a newspaper of general circulation in the Township not less than five (5) and not more than 15 days before the hearing date.
  - b. **Rejection.** The Township Board may reject the proposed conditional rezoning amendment.
  - c. **Adoption.** If the Township Board determines that it may adopt the conditional rezoning, then the Township Board shall direct the Township Consultant and Township Attorney to prepare a draft conditional rezoning agreement, per Section 12.05E (Conditional Rezoning Agreements). Upon completion of the conditional rezoning agreement, the Township Board may adopt or reject the conditional rezoning amendment, including any conditional rezoning plan and conditional rezoning agreement.

#### **E. Conditional Rezoning Agreement.**

As directed by the Township Board, the Township Consultant, Township Attorney, and applicant or designee shall prepare a proposed conditional rezoning agreement. The proposed agreement shall incorporate the conditional rezoning plan proposed by the applicant and shall set forth the rezoning conditions and any other terms mutually agreed upon by the parties relative to the land subject to the proposed conditional rezoning.

1. **Contents and terms.** A conditional rezoning agreement shall include the following terms:



- a. Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the conditional rezoning agreement.
  - b. Agreement and acknowledgement that the conditions and conditional rezoning agreement are authorized by all applicable state and federal laws and constitution and that the conditional rezoning agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
  - c. Agreement and understanding that the land in question shall not be developed or used in a manner that is inconsistent with the conditional rezoning plan and conditional rezoning agreement.
  - d. Agreement and understanding that the approval and conditional rezoning agreement shall be binding and upon and inure to the benefit of the landowner and the Township, and their respective heirs, successors, assigns, and transferees.
  - e. Agreement and understand that, if a conditional zoning becomes void in the manner provided in this Section, no development shall be undertaken or permits for development issued until a new zoning district classification of the land has been established.
  - f. Agreement and understand that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
2. **Effective date and recording of conditional rezoning agreement.** A conditional rezoning shall become effective following both publication in the manner provided by law and recording of the conditional rezoning agreement with the Monroe County Register of Deeds office by the Township Clerk.
  3. **Amendment of conditional rezoning agreement.** Amendment of a conditional rezoning agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.
  4. **Expiration of conditional rezoning agreement.** The conditional rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning unless:

- a. Approved development of the land commences within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion; or
- b. The rezoning is extended for good cause by the Township Board as provided for in Section 12.05J (Extensions of Conditional Rezoning Approval).

**F. Approval Criteria**

The applicant shall have the burden of demonstrating that the following requirements and standards are met by the conditional rezoning plan, rezoning conditions, and conditional rezoning agreement:

- 1. **Enhancement of the project area.** The Township Board shall determine that approval of the conditional rezoning shall:
  - a. Accomplish the integration of the proposed land development project with the characteristics of the project area; and
  - b. Result in an enhancement of the project area that would be unlikely to be achieved or would not be assured without the use of conditional rezoning.
- 2. **In the public interest.** The Township Board shall determine that, in considering the site specific land use proposed by the applicant, sufficient conditions have been included in the conditional rezoning plan and conditional rezoning agreement so that the public interest would be served by granting the conditional rezoning.

In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonable expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles and factors.

- 3. **Other amendment considerations.** In considering a conditional rezoning amendment, the Planning Commission and Township Board shall also consider the following factors:
  - a. Consistency with the Master Plan’s goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.

- b. Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with the site's physical, geological, hydrological, and other environmental features.
- c. Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with surrounding uses, densities, and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- d. Capacity of available utilities and public services to accommodate all potential uses allowed in the zoning district(s) under the proposed conditional rezoning without compromising the health, safety, and welfare of Township residents or burdening the Township of Monroe County with unplanned capital improvement costs or other unplanned public expenses.
- e. Capability of the road system to safely and efficiently accommodate the expected traffic generated by all potential uses allowed in the zoning district(s) under the proposed conditional rezoning.
- f. The apparent demand for the types of potential uses allowed in the zoning district(s) under the proposed conditional rezoning in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
- g. The boundaries of the proposed zoning district(s) in relationship to the surrounding area and the scale of future development on the site.
- h. The requested conditional rezoning will not create an isolated or incompatible zone in the area.
- i. Other factors deemed appropriate by the Township Board.

**G. Zoning District Designation.**

If approved, the zoning classification of the rezoned land shall consist of the district to which the land has been rezoned accompanied by a reference to "CR" (Conditional Rezoning). For example, the Official Zoning Map designation for a conditional rezoning to the I-R (Industrial-Research) District would be "I-R/CR."

**H. Re-Application.**

Whenever a conditional rezoning application has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Township Consultant determines that one or more of the following conditions has been met:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
2. New or additional information is available that was not available at the time of the review.
3. The new application is materially different from the prior application.

**I. Development Subject to Conditional Rezoning Requirements.**

The use and future development of land subject to an approved conditional rezoning shall conform to all regulations governing development and use in the zoning district to which the land has been rezoned, and the more restrictive requirements specified on the approved conditional rezoning plan and in the conditional rezoning agreement.

1. No other development or use shall be permitted, and the requirements of the approved conditional rezoning plan and conditional rezoning agreement shall supersede all inconsistent regulations otherwise applicable under this Ordinance.
2. Approval of the conditional rezoning plan and agreement confirms only the rezoning of the land. Site plan, special use, subdivision plat, and condominium plan approval shall be required as provided for in this Ordinance, prior to any improvements to the land.

**J. Extension of Conditional Rezoning Approval.**

In the event that a bona fide development has not commenced within two (2) years from the effective date of the rezoning, the conditional rezoning and conditional rezoning agreement shall be void and of no effect.

1. The Township Board may approve one (1) extension of up to 365 calendar days, upon written request by the landowner received by the Township Clerk before the two (2) year time limit expires.
2. The landowner shall show good cause why the extension should be granted.

**K. Revert to Former Zoning.**

If the conditional zoning becomes void and of no effect, then by automatic reverter set forth in Section 16i of the Township Zoning Act (P.A. 184 of 1943, as amended), the land shall revert to its former zoning classification, which shall be confirmed by resolution of the Township Board.

**L. Violations of the Conditional Rezoning Agreement.**

If development or actions are undertaken on or with respect to the land that are in violation of the conditional rezoning agreement, such development or actions shall constitute a nuisance per se.

1. In such case, the Township may issue a stop work order relative to the land and seek any other lawful remedies.
2. Until curative action is taken to bring the land into compliance with the conditional rezoning agreement, the Township may withhold or, following notice and an opportunity to be heard, revoke permits and certificates; in addition to or in lieu of such other lawful action to achieve compliance.