

## **CHAPTER 24**

### **Administration and Enforcement**

#### **Section 24.1 Interpretation**

In the interpretation and application of this Ordinance, the provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than this Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than in required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall govern and control.

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the protection of the public health, safety and general welfare.

#### **Section 24.2 Zoning Administrator**

This Ordinance shall be administered by the Zoning Administrator and designees of same. References throughout this Ordinance to the Building Inspector shall also be deemed to include the Zoning Administrator unless the duties relate solely to the interpretation or the enforcement of the State Construction Code. The Zoning Administrator shall among other duties, be responsible for the following:

- A. Interpretation of the Zoning Ordinance.
- B. Issuance of all permits as required by the Zoning Ordinance.
- C. Enforcement of the Zoning Ordinance.
- D. Record keeping of all zoning related documents.
- E. Such other duties and obligations as are specified by state law.

#### **Section 24.3 Unclassified Uses**

Any use, use of land, activity, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the use is substantially similar in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or other Township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a

proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Land Use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to the Zoning Ordinance, but are not required to do so.

#### **Section 24.4 Building Permits; Zoning Permits**

- A. A building or structure shall not be erected, moved, placed, reconstructed, extended, enlarged or altered unless such activity is performed in accordance with a building permit issued pursuant to the State Construction Code, as enforced by the Township, and unless such activity is performed in accordance with any zoning approval issued pursuant to this Ordinance, nor shall any use on any property be changed to another use unless such change is performed in accordance with any zoning approval issued pursuant to this Ordinance and a building permit when required under the State Construction Code. No building, plumbing, electrical, mechanical or other permit shall be issued until the Zoning Administrator has determined that the plans and use will conform to the provisions of this Ordinance. No building permit shall be issued until and unless a zoning permit has been issued by the Zoning Administrator (in a situation where a zoning permit is required).
- B. No person shall commence any use of a property or begin construction of a building or structure (including excavating for a basement or foundation of a building) without first obtaining a zoning permit from the Zoning Administrator. No zoning permit shall be required for farming or agricultural operations other than the construction or alteration of an agricultural building or structure for which a building permit is required. The Zoning Administrator shall not issue a zoning permit until a complete application has been submitted to the Township showing that the proposed construction or use complies with all of the provisions of this Ordinance. The Zoning Administrator may attach reasonable conditions and time limits to the issuance of a zoning permit.

#### **Section 24.5 Fees**

Except as may be provided for otherwise in this Ordinance, the Township Board shall determine and set fees to be collected for all applications for zoning matters and approvals. These fees shall be collected prior to the issuance of any permit or certificate, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Township. Furthermore, Township employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Township in full. The fee schedule shall be that adopted by resolution of the Township Board as amended from time to time.

In addition to regularly established fees, the Township Board at its discretion may also require an applicant to submit to the Township, at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except when authorized under appropriate provisions of the

Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted wither in whole or in part.

Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Township’s reasonable costs and expenses, may include but shall not be limited to Township attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in questions, special meeting costs and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies, paid or deposited by an applicant, which are not used or spent by the Township pursuant to an escrow fee shall be refunded.

If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Township for the same.

### **Section 24.6 Expiration of Zoning Approval**

If a zoning approval under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval. If a zoning approval is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted by the body, commission, or official which granted the initial zoning approval

### **Section 24.7 Public Notices – Publication, Mailing, and Delivery**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the Board of Appeals involving a specific parcel; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U. S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

1. The applicant;
2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application; and
3. The occupants of all structures within 300 feet of the property that is the subject of the application.

If the above-described 300-foot radius extends outside of the Township’s boundaries, then notice must be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories.

C. The notice of public hearing shall include the following information:

1. A description of the nature of the application or request.
2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.
3. A statement of where and when the application or request will be considered.
4. Indicate where and when written comments will be received concerning the application or request.

## **Section 24.8 Performance Guarantees**

As a condition of approval of a site plan review, special land use, variance, or other zoning approval, the Township Board, Planning Commission, Zoning Administrator, or the Zoning Board of Appeals may require a performance guarantee to ensure compliance with the zoning approval. The performance guarantee shall be in an amount, form, and type with language which is approved by the Township body or official involved. The Township shall have the discretion to require a bond, irrevocable letter of credit, or monetary deposit with the Township.

With regard to required improvements, the Township can require a performance guarantee of a sufficient amount and form to assure the installation of required improvements or components of the approved use, activity, or construction which are considered reasonably necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.

The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.

Performance guarantees shall be processed in the following manner:

- A. Prior to the issuance of a Certificate of Occupancy, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Building Inspector. The

amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.

- B. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
- C. Upon receipt of the required performance guarantee, the Building Inspector shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.
- D. The Building Inspector, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- E. When all of the required improvements have been completed, the obligor shall send written notice to the Building Inspector of completion of the improvements. Thereupon, the Building Inspector shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- F. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- G. The Building Inspector shall maintain a record of required performance guarantees.
- H. In lieu of providing performance guarantees, the Township and the applicant for a development proposal may agree to enter into a development agreement that would be recorded with the Register of Deeds.

## **Section 24.9 Violations and Penalties**

- A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense and not less than \$100 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

- B. In addition to pursuing a municipal civil infraction proceeding pursuant to subsection A hereof, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- C. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- D. Any use of land which is commenced or conducted, any activity, or any building, item or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se.
- E. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.

### **Section 24.10 Stop Work Orders**

- A. **Notice to Owner.** Upon notice from the Zoning Administrator or Building Inspector that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance or any permit or approval thereunder, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. **Unlawful Continuance.** Any person who shall continue to work in or about a structure, land or building or use it after having been served with a stop work order, except such work as that person is directed by the Township to perform to remove a violation, shall be in violation of this Ordinance.

### **Section 24.11 Proof of Ownership**

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before issuance of a zoning permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special use requests, site plan review, zoning permits, and any other zoning or building code action.

### **Section 24.12 Surveys**

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with

property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

### **Section 24.13 Drainage**

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible and liable for stormwater runoff, flooding, or other water problems or damages to other properties or public roads caused by or attributable to such construction. The Zoning Administrator shall have the authority to suspend or revoke a zoning permit should the requirements of this section be violated. No such suspended or revoked zoning permit shall be reinstated until the property owner posts monetary security with the Township as determined by the Zoning Administrator. Once construction has been completed and thereafter, the owner of the property involved shall be responsible for ensuring that drainage and stormwater from that property do not adversely impact adjoining properties, lakes, streams, or wetlands.

### **Section 24.14 Damage During Construction**

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible for and liable for any damage to roads, littering, flooding, or other damage or casualty caused by or attributable to such construction. No construction or supply equipment or other equipment or vehicles associated with construction on a particular property shall block roads or present a safety hazard. The Zoning Administrator shall have the authority to suspend or revoke a zoning permit should the requirements of this section be violated. No such suspended or revoked zoning permit shall be reinstated until the property owner posts monetary security with the Township as determined by the Zoning Administrator.