

ARTICLE 43
Amendments

§ 170-43.1 Intent.

The intent of this Article is to outline the process for amending the text of the zoning ordinance or the boundaries of any zoning district.

§ 170-43.2. Initiation of amendments.

The Board of Trustees, on recommendation from the Planning Commission or on petition, may amend, supplement or change the district boundaries or the regulations established herein pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006) and Article 43, Amendments. Text amendments may be initiated by any governmental body or any interested person or organization. An amendment to the zoning map may be initiated by any governmental body or freehold interest in the subject property, a possessor interest entitled to exclusive possession, a contractual interest which may become a freehold interest, an exclusive possessory interest entitled to exclusive possession or which is specifically enforceable.

§ 170-43.3. Applications.

Except for requests initiated by the Township Board or Planning Commission, an application is required for an amendment to the text of this chapter or an amendment to change the zoning classification of a particular property.

- A. An application to amend the zoning map shall include the following information.
 - (1) A written description of how the requested rezoning satisfies the requirements identified in this article.
 - (2) An impact statement, pursuant to Article 32, Impact Assessment, for rezoning requests that represent a departure from the township's master plan.
 - (3) A location map.
- B. A request for a text amendment shall include a general description of the proposed amendment.

§ 170-43.4. Procedure.

- A. A public hearing, pursuant to §170-40.7, is required for text amendments and amendments to the zoning map.
- B. For amendments to the zoning map, the applicant shall erect a sign on the property pursuant to Board Resolution 91-135, as amended.
- C. Following the public hearing, the Planning Commission shall identify and evaluate factors relevant to the request and the criteria contained in this article. The Planning Commission shall make its recommendation, by findings of fact, to the Board of Trustees. The Planning Commission shall make one of the three findings below.
 - (1) The proposed text amendment or change to zoning district boundaries shall be approved as submitted.
 - (2) The proposed text amendment shall be approved as modified by the Planning Commission, or the proposed zoning district be changed to a more restrictive zoning classification.
 - (3) The proposed text amendment or change to zoning district boundaries shall be denied.
- D. The planning department shall forward a copy of the application materials, Planning Commission recommendation, findings of fact and summary of public comment, as applicable, to the Board of Trustees for placement on the next regularly scheduled Board of Trustee meeting agenda.
- E. The Township Board shall approve or deny the amendment, based on the criteria contained in this article. The Township Board may elect to conduct another public hearing or an interested property owner may request a hearing on a proposed ordinance amendment. The request shall be made to the Township Clerk and the hearing notice shall be provided to the interested property owner.
- F. A notice of ordinance adoption shall be published in the newspaper and the amendment becomes effective seven days after publication.
- G. For an amendment to the zoning map, the planning department shall update the zoning map.

§ 170-43.5. Criteria for amendment of zoning map.

In considering any application for an amendment to the zoning map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision.

- A. Consistency with the goals, policies and future land use map of the Charter Township of Northville Master Plan, including any sub area or corridor plans. If conditions have changed since the master plan was adopted, the rezoning may be found to be consistent with recent development trends in the area.
- B. Compatibility of the site's physical, geological, hydrological and other environmental features with all uses permitted in the proposed zoning district compared to uses permitted under current zoning.
- C. Evidence that if the current zoning is enforced, the consequent restriction will preclude the use of the property for any purpose to which it is reasonably adapted and that the application of the current classification amounts to a confiscation of plaintiff's property.
- D. Compatibility of all uses permitted 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 compared to uses permitted under current zoning.
- E. Capacity of township utilities and services are sufficient to accommodate all the uses permitted in the requested district without compromising the health, safety and welfare of the Township.
- F. Capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district. A rezoning traffic assessment shall be required for all proposed rezonings that would result in potential uses that may generate more peak hour or daily trips than currently zoned uses would generate. An assessment is intended to identify a comparison between the peak hour and daily trip generation characteristics of the existing and proposed zoning. A traffic impact study in accordance with the requirements of § 170-32.4 shall be provided if the proposed zoning district permits uses that could generate 100 or more directional trips during the peak hour than the majority of the uses that could be developed under the current zoning.
- G. Apparent demand for the types of uses permitted in the requested zoning district, in the township and surrounding area, in relation to the amount of land in the township, and surrounding area, currently zoned and available to accommodate the demand.
- H. Whether the boundaries of the requested zoning district are sufficient to meet the dimensional regulations for the zoning district listed in the Article 18, Schedule of Regulations.

- I. If a rezoning is appropriate, the requested zoning district shall be more appropriate from the township's perspective than another zoning district.
- J. If the applicant's request is for a specific use, rezoning shall be found to be more appropriate than amendment to the list of permitted or special land uses in the current zoning district.
- K. The requested rezoning will not create an isolated and unplanned spot zone.
- L. The request has not previously been submitted within the past one year, unless conditions have changed or new information has been provided.
- M. Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the township and enhance the overall quality of life in the Charter Township of Northville.

§ 170-43.6. Criteria for text amendments.

In considering an application for a text amendment, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision.

- A. The proposed amendment would correct an error in the ordinance.
- B. The proposed amendment would clarify the intent of the ordinance.
- C. Documentation has been provided from township staff that indicates problems and conflicts in implementation or interpretation of specific sections of the chapter.
- D. The proposed amendment would address changes to the state legislation.
- E. The proposed amendment would address potential legal issues or administrative problems with the chapter based on recent case law or opinions rendered by the Attorney General of the State of Michigan.
- F. The proposed amendment would promote compliance with changes in other township ordinances and county, state or federal regulations.

- G. The proposed amendment is supported by the findings of reports, studies or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
- H. Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the township, promote implementation of the goals and policies of the master plan, other sub area or corridor plans and enhance the overall quality of life in Charter Township of Northville.

§ 170-43.7. 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 to any other board or agency.

§ 170-43.8. Conditional zoning agreement.

- A. An applicant may voluntarily offer a conditional zoning agreement along with an application for rezoning. The conditions set forth in the conditional zoning agreement must be more restrictive than the regulations contained in the proposed zoning district.
- B. The offer for a conditional zoning agreement shall be submitted in writing prior to the public hearing, pursuant to the Michigan Zoning Enabling Act 110 of 2006, as amended. The Township may voluntarily accept the offer for a zoning agreement, but shall not be obligated to accept such offer.
- C. When necessary, the conditional zoning agreement shall also include a conceptual site plan. This plan shall not replace the requirement for a site plan review and approval per Article 33, Site Plan Review.
- D. The conditional zoning agreement may include limitations on the uses permitted within the zoning district, specification of lower density or less intense development/use or may impose more restrictive measures on the location, size, height or other regulations for structures, improvements, setbacks, landscaping, design, architecture and other site features. The conditional zoning agreement may not authorize uses which are not permitted in the proposed zoning district, developments of greater intensity/density or permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district. The conditional zoning agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The conditional zoning agreement may include conditions related

to the use and development of the property that are necessary to accomplish the following.

- (1) Serve the intended use of the property such as extension, installation or construction of or improvements to roadways, utilities or other infrastructure serving the site.
- (2) Minimize the impact of the development on surrounding properties.
- (3) Preserve natural features and open space.

E. In addition, the conditional zoning agreement shall also include the following.

- (1) Acknowledgement that the conditional zoning agreement was voluntarily proposed by the applicant.
- (2) Agreement and understanding that the property shall not be developed or used in any manner that is not consistent with the conditional zoning agreement.
- (3) Agreement and understanding that the rezoning and the conditional zoning agreement shall be binding upon the property owner, Township and their respective heirs, successors, assigns, receivers or transferees.
- (4) Agreement and understanding that, if a rezoning with a conditional zoning agreement becomes void, no further development shall take place and no permits, consents or other approvals shall be issued unless and until a new zoning classification has been established for the property.
- (5) Agreement and understanding that no part of the conditional zoning agreement shall permit any activity, use or condition that would otherwise violate any requirements or standard that is otherwise applicable in the new zoning district.
- (6) Any other provisions as are agreed upon by the parties.

D. Any uses proposed as part of a conditional zoning agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of Articles 30, Special Land Use Standards and Procedures and Article 33, Site Plan Review.

E. Failure to comply with the conditional zoning agreement will constitute a breach of the agreement and a violation of this ordinance. Further use of the property may be subject to legal remedies available to the Township.

F. Review procedures.

- (1) The conditional zoning agreement shall be reviewed by the Township attorney to determine that the agreement conforms to the requirements of this section, the Township Zoning Act, as amended, and the conditional zoning agreement is in a form acceptable for recording with the Wayne County Registrar of Deeds.
- (2) Following the public hearing, the Planning Commission shall make a recommendation to the Township Board based upon the criteria listed in Article 43.5. The Planning Commission shall consider whether the proposed conditional zoning agreement achieves the following.
 - a. Is consistent with the intent of this article.
 - b. Bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - c. Is necessary to insure that the property develops in such a way that protects the surrounding neighborhood and minimizes potential impacts to adjacent properties.
 - d. Is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed conditional zoning agreement.
 - e. Leads to a development that is more compatible with abutting or surrounding uses than would have been likely if the property had been rezoned without a conditional zoning agreement or if the property were left to develop under the existing zoning classification.

G. Approval.

- (1) If the rezoning and conditional zoning agreement is approved, the zoning classification of the property shall consist of the district to which the property has been rezoned, with a reference to the conditional zoning agreement.
- (2) The approved agreement shall be executed by the owner and a recorded copy delivered to the township. Building permits shall not be accepted for review until a recorded copy of the conditional rezoning agreement is received by the township.

H. Expiration.

- (1) If substantial construction has not commenced within two (2) years, the conditional zoning agreement shall be void.
 - (2) Should the conditional zoning agreement become void, all development on the subject property shall cease and further development shall not be permitted. Until action satisfactory to the Township is taken to bring the property into compliance with the conditional zoning agreement, the Township may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
 - (3) The Township Board, upon recommendation from the Planning Commission, may grant a one (1) year extension provided the property owner submits satisfactory evidence for the extension, at least 30 days prior to the expiration date. A further extension of one (1) year may be granted provided there is forward progress by the applicant.
 - (4) If the rezoning and conditional zoning agreement becomes void, then the land shall automatically revert back to its original zoning classification as set forth in Michigan Zoning Enabling Act 110 of 2006, as amended. The planning department will advise the land owner and developer, by registered letter, of the reversion of zoning.
- I. Nothing in the conditional zoning agreement, or other provisions, shall prohibit the township from later rezoning all or any portion of the property to another zoning classification. Any land use initiated pursuant to the conditional zoning agreement will be allowed to continue, after any later rezoning under this subsection, in accordance with the following.
- (1) Provided all development and/or use of the property is in compliance with the conditional zoning agreement. A use or development may continue indefinitely, provided all terms of the conditional zoning agreement are followed.
 - (2) Failure to comply with the conditional zoning agreement will constitute a breach of the agreement and also a violation of this ordinance. Further use of the property may be subject to legal remedies available to the township under the Zoning Ordinance and the Township Zoning Act.
- K. Amendment.
- (1) During the initial two (2) year period, or during any extension granted by the township, the township shall not add to or alter the conditional zoning agreement, even with the landowner's consent.

- (2) The conditional zoning agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and conditional zoning agreement.

- L. If the developer constructs any public improvements in connection with the development, a financial guarantee, in an amount equal to the expected cost of the public improvements, shall be provided to the township. The developer shall also warrant the public improvements for a period of one (1) year from the date of acceptance by the township and shall at its sole expense, repair or replace, at the township's sole discretion, any public improvements which fail during the one (1) year warranty. The value of the financial guarantee may be reduced as the Township accepts the public improvements, by the value of the work accepted, provided a minimum of 25% is retained for the one (1) year warranty period.