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DATE: December 11, 2015
TO: Dexter Township Planning Commission
FROM: Zach Michels, Director of Planning & Zoning
RE: Draft Amendment Article of the Zoning Ordinance

MEMORANDUM

The Zoning Ordinance Review Committee (Pizza Club) has been reviewing and helping the Director of Planning and Zoning prepare revisions to the Zoning Ordinance. The attached article outlines the process of amending the Zoning Ordinance. It is currently Article 5. *The attached draft does not show redline changes from the current Zoning Ordinance.*

The major change to this article is that it now has a general process section that applies to both zoning text and zoning map amendments and a specific section for each type of amendment. Currently, they are all mixed together, which can make it confusing to apply review criteria.

This draft does not allow for conditional zoning map amendments. Conditional zoning map amendments provide the applicant the opportunity to request a zoning map amendment and offer limitations. For example, the property could be zoned commercial but could only be used for a restaurant or similar. The intent of conditional zoning amendments is to allow for a use that may be permitted in the new zoning district that may be appropriate without allowing other uses permitted in the new zoning district that may not be appropriate. The majority of the Committee felt that future Planning Commissions could abuse this process and require concessions of applicants. *(The state Zoning Enabling Act prohibits such actions.)*

There is no settled consensus as to whether or not a zoning ordinance must explicitly allow for conditional zoning map amendments in order for the community to do them. If the Township believes it may want to provide that option to property owners, it would be best to codify the process in the Zoning Ordinance because of the additional processes and information necessary.



This article has been reviewed by the Township Attorney. No objections were offered. It was recommended that if the Township did want to allow for conditional zoning map amendments it should review those at two Planning Commission meetings in order to provide greater transparency to that process.

§x.05 Title

This section has been revised from a single paragraph to separate sentences to make it easier to use.

§x.10 General Amendment Process

The majority material in this section are in §5.04 of the current Zoning Ordinance. This section applies to both zoning text and zoning map amendments.

(D) Review of Completeness has been clarified with a time limit placed on that review.

(I) Reapplication is currently in §5.05. It has been moved into this section for better ease of use.

(K) Effective Date has been amended to specify exactly what time the amendment is effective.

§x.15 Zoning Map Amendment

This is a new section that applies specifically to zoning map amendments (*rezoning*).

The number of decision criteria has been reduced to reflect the core issues the Committee felt should be considered during zoning map amendment review.

The Township Board can now make minor grammatical changes without sending an amendment back to the Planning Commission.

§x.20 Zoning Text Amendment

This is a new section that applies specifically to zoning text amendments.

(B) Decision Criteria has been added. The criteria in the current Zoning Ordinance apply to zoning map amendments and do not easily translate for zoning text amendments.

The Township Board can now make minor grammatical changes during its initial review without sending an amendment back to the Planning Commission.



§x.25 Amendment Required by Court Decree

This section has been added to be consistent with the Zoning Enabling Act, which allows for amendments that have been ordered by a court to go directly to the Township Board.

§x.30 Petition for Referendum

This section is currently §5.04(G). It has been given its own section to provide greater prominence. The details of the petition process are not included in the text because it is outlined in the Zoning Enabling Act.

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ARTICLE XX

AMENDMENTS

§ XX.05 - INTENT & PURPOSE

The intent and purpose of this Article is to:

- (A) Establish the process to amend this Ordinance;
- (B) Establish decision criteria to be used when reviewing zoning map amendments and text amendments to this Ordinance;
- (C) Ensure this Ordinance is amended to address changed or changing conditions in the Township; and
- (D) Ensure this Ordinance is amended in order to conform with changes to the Master Plan, other Township ordinances, county, state, and federal laws, and court decisions.

§ XX.10 - GENERAL AMENDMENT PROCESS

Zoning map and text amendments to this Ordinance shall be reviewed as described below and in this Article.

- (A) **Initiation:** Amendments to this Ordinance shall be initiated by the Township Board, Planning Commission, Zoning Board of Appeals, Director of Planning and Zoning, or one (1) or more owner(s) of property within the Township's zoning jurisdiction that is affected by the proposed amendment.
- (B) **Application:** The applicant shall submit a complete application form, provided by the Township. The application shall include all relevant materials. Submission of an application constitutes a representation that all the information is complete and accurate.
- (C) **Fee:** A fee, as established by the Township Board, shall be submitted at the time of application. No fee shall be required if the Township is the applicant.
- (D) **Review of Completeness:** An application for an amendment of this Ordinance shall be reviewed by the Director of Planning and Zoning for completeness.
 - (1) **Review Letter:** The Director of Planning and Zoning shall issue a review letter within fourteen (14) business days of receiving the application stating whether the application is complete, or, if not, what additional materials or information is necessary for it to be considered complete. This period may be extended at the applicant's request in writing. If the review letter is not issued within the above period, the amendment application shall be placed on the next available Planning Commission agenda.
 - (2) **Administratively Complete:** The application shall be considered administratively complete on the date that the Director of Planning and Zoning declares an application complete or the expiration of the fourteen (14) business days described above, unless the application has been declared incomplete.

- (E) **Scheduling:** Upon declaration of an administratively complete application by the Director of Planning and Zoning, the application shall be placed on the next available agenda for the Planning Commission. The applicant may request it be placed on a later meeting agenda or may request a special meeting, with payment of an additional special meeting fee.
- (F) **Notice of Hearing:** The Township shall give public notice as outlined in Article XX of this Ordinance and MCL 125.3103 (PA 110 of 2006).
- (G) **Planning Commission Review:** The Planning Commission, following at least one (1) public hearing, shall forward an amendment to this Ordinance to the Township Board with a favorable or unfavorable recommendation, as outlined in §x.15 of this Article for zoning map amendments or §x.20 of this Article for zoning text amendments.
- (H) **Township Board Review:** The Township Board, following review at a regular meeting or a special meeting called for that purpose, shall adopt, not adopt, or return an amendment to this Ordinance, as outlined in §x.15 of this Article for zoning map amendments or §x.20 of this Article for zoning text amendments.
- (I) **Reapplication:** An application for an amendment to this Ordinance that has been denied shall not be resubmitted for reconsideration for a period of one (1) year from the date the decision became final, unless any one (1) of the following is true:
- (1) **Changed Conditions:** The Planning Commission determines, upon inspection, proof of changed conditions that contributed to the denial; or
 - (2) **Changes to Amendment:** The Planning Commission determines, upon inspection, that substantial changes have been made to the proposed amendment to this Ordinance that address the reasons for denial.
- (J) **Publication of Notice of Adoption:** At least one (1) notice of adoption shall be published in a newspaper of record within fifteen (15) days of adoption and on the Township's website, if it regularly maintains a website, following adoption of an amendment to this Ordinance. The notice shall contain the following information:
- (1) **Summary or Text:** Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 - (2) **Effective Date:** The effective date of the amendment; and
 - (3) **Time and Place:** The time and place where a copy of the amended Ordinance may be inspected or purchased.
- (K) **Effective Date:** An amendment to this Ordinance shall be effective at 12:01 am, seven (7) days after publication.

§ XX.15 - ZONING MAP AMENDMENT

Zoning map amendments shall be reviewed as outlined in this Section.

(A) Application Materials: An application for a zoning map amendment shall include the following:

- (1) *Application Form:* A signed and completed application form, provided by the Township;
- (2) *Fee:* A zoning map amendment application fee, as outlined in the adopted fee schedule;
- (3) *Site Plan or Survey:* The applicant shall submit at least one (1) hard copy and a digital copy, in a format acceptable to the Township, of the site plan or survey with the application and shall submit at least fifteen (15) hard copies following the review of completeness;
- (4) *Legal Description:* A legal description of the area to be rezoned; and
- (5) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning.

(B) Right to Enter Property: Submission of an application for a zoning map amendment shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.

(C) Applicant's Responsibilities: The applicant for a zoning map amendment shall post a public notice sign or signs, provided by the Township, clearly visible from each adjacent street, on the affected property or properties and shall mark the area in question, at least fifteen (15) days before the public hearing. This shall not apply when the Township is replacing the Official Zoning Map. The public notice sign(s) and marking shall be maintained in good condition until a final decision is made by the Township Board.

(D) Decision Criteria: The Planning Commission and Township Board shall consider the following in making a recommendation or a decision when reviewing a zoning map amendment:

- (1) *Master Plan:* The zoning map amendment shall be compatible with the goals, policies, and future land use map of the Master Plan;
- (2) *Compatibility with Property:* The possible uses allowed in the proposed zoning district shall be compatible with the property's physical, geological, hydrological, and other environmental characteristics;
- (3) *Compatibility with Area:* The possible uses allowed in the proposed zoning district shall be compatible with surrounding uses and zoning with respect to land suitability, impacts on the environment, density, nature of use, traffic, aesthetics, infrastructure, and potential influence on property values; and
- (4) *Infrastructure and Services:* There shall be adequate capacity in the Township to provide sufficient infrastructure and services for possible uses allowed in the proposed zoning district without compromising the general public health, safety, and welfare.

- (E) **Planning Commission Review:** The Planning Commission, following a public hearing, shall forward a zoning map amendment with a favorable or unfavorable recommendation to the Township Board or postpone action.
- (1) *Favorable Recommendation:* If a zoning map amendment receives a favorable recommendation, the Planning Commission shall cite its reasons. The affirmative vote of at least four (4) members of the Planning Commission shall be necessary to receive a favorable recommendation.
 - (2) *Unfavorable Recommendation:* If a zoning map amendment receives an unfavorable recommendation, the Planning Commission shall cite its reasons.
 - (3) *Postpone:* If the Planning Commission determines that a zoning map amendment application does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement.
 - (4) *Timely Review:* The Planning Commission shall make a recommendation on a zoning map amendment within sixty (60) days of the date it was administratively complete, unless a delay is agreed to by the Planning Commission and the applicant.
 - (5) *Forward to Township Board:* The Planning Commission's recommendation, along with any comments received at any public hearing(s), shall be forwarded to the Township Board within sixty (60) days of making its recommendation.
- (F) **Township Board Review:** The Township Board may adopt, not adopt, or return a zoning map amendment to the Planning Commission.
- (1) *Actions:* The Township Board shall adopt a zoning map amendment as forwarded by the Planning Commission or shall return it to the Planning Commission for further attention, including a list of specific objections. The Township Board may make minor grammatical corrections that do not change the meaning of the zoning map amendment.
 - (2) *Adoption:* A zoning map amendment shall be in the form of an ordinance and shall require the affirmative vote of at least four (4) members of the Township Board.

§ XX.20 - ZONING TEXT AMENDMENT

Zoning text amendments shall be reviewed as outlined in this Section.

- (A) **Application Materials:** An application for a zoning text amendment shall include the following:
- (1) *Application Form:* A signed and completed application form, provided by the Township;
 - (2) *Fee:* A zoning text amendment application fee, as outlined in the adopted fee schedule;
 - (3) *Text:* The applicant shall submit at least one (1) hard copy and a digital copy, in a format acceptable to the Township, of the zoning text amendment, including a detailed statement clearly and completely setting forth all the proposed provisions and regulations with all of the necessary changes to this Ordinance, and indication of the purpose of the zoning text amendment with the application and shall submit at least fifteen (15) hard copies following the review of completeness;
 - (4) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning.

- (B) **Decision Criteria:** The Planning Commission and Township Board shall consider the following in making a recommendation or a decision when reviewing zoning text amendments:
- (1) *Master Plan:* The zoning text amendment shall be generally compatible with the goals, policies, and future land use map of the Master Plan; and
 - (2) *State and Federal Law:* The zoning text amendment shall be consistent with state and federal law.
- (C) **Planning Commission Review:** The Planning Commission, following a public hearing, shall forward a zoning text amendment with a favorable or unfavorable recommendation to the Township Board or postpone action.
- (1) *Favorable Recommendation:* If a text amendment receives a favorable recommendation, the Planning Commission shall cite its reasons. The affirmative vote of at least four (4) members of the Planning Commission shall be necessary to receive a favorable recommendation.
 - (2) *Unfavorable Recommendation:* If a text amendment receives an unfavorable recommendation, the Planning Commission shall cite its reasons.
 - (3) *Postpone:* If the Planning Commission determines that a text amendment application does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement.
 - (4) *Timely Review:* The Planning Commission shall make a recommendation on a text amendment within sixty (60) days of the date it was administratively complete, unless a delay is agreed to by the Planning Commission and the applicant.
 - (5) *Forward to Township Board:* The Planning Commission's recommendation, along with any comments received at any public hearing(s), shall be forwarded to the Township Board within sixty (60) days of making its recommendation.
- (D) **Township Board Review:** The Township Board may adopt, not adopt, or return a zoning text amendment to the Planning Commission.
- (1) *Initial Review:* The Township Board shall adopt a zoning text amendment as forwarded by the Planning Commission or shall return it to the Planning Commission for further attention, including a list of specific objections. The Township Board may make minor grammatical corrections that do not change the meaning of the zoning text amendment without returning it to the Planning Commission.
 - (2) *Additional Reviews:* After a zoning text amendment to this Ordinance has been referred to and returned from the Planning Commission, the Township Board shall adopt the zoning text amendment as forwarded by the Planning Commission or with changes or shall return it to the Planning Commission for further attention, including a list of specific objections.
 - (3) *Adoption:* A zoning text amendment shall be in the form of an ordinance and shall require the affirmative vote of at least four (4) members of the Township Board.

§ XX.25 - AMENDMENT REQUIRED BY COURT DECREE

An amendment to this Ordinance for the purpose of complying with the decree of a court of competent jurisdiction as to any specific lands shall be adopted by the Township Board and published without requiring a public hearing or review by the Planning Commission, as outlined in MCL 125.3202(5) (Public Act 111 of 2006).

§ XX.30 - PETITION FOR REFERENDUM

Registered electors may file a notice of intent to file a petition for referendum within seven (7) days of the publication of an amendment to this Ordinance as outlined in MCL 125.3402 (Public Act 111 of 2006).

End of Article xx.