

**ARTICLE TWENTY-SIX (26)**  
**CHANGES AND AMENDMENTS**

**Sec. 26.01**            **Intent:**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of Moran Township, this Ordinance shall not be amended except to correct an error in the Ordinance, or because of changed or changing conditions in a particular area in the Township generally, to rezone an area, extend the boundary of an existing district, or to change the regulations and restrictions thereof.

**Sec. 26.02**            **Amendment Initiation:**

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

**Sec. 26.03**            **Summary of Amendment Process:**

- a.        Petitioner submits application and fee.
- b.        Clerk transmits application to Planning Commission, sets hearing date, and publishes notices of hearing as prescribe in Sec. 26.04, below.
- c.        Planning Commission holds hearing, and makes a decision, a summary of the comments received at the public hearing along with the decision are then forwarded to the Township Board.
- d.        The Township Board either enacts or rejects proposed changes as an Ordinance amendment or, if the Township Board considers amendments, changes, additions, or departures advisable to the proposed Ordinance provision, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After receiving the report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner who, by certified mail addressed to the Clerk of the Township Board, requests a hearing, and the Township Board shall request the Planning Commission to attend the hearing. After hearing at a regular meeting or at a special meeting called for that purpose, the Township Board may adopt, by a majority vote of its membership, pursuant to the Zoning Act, a zoning ordinance or amendments to the zoning ordinance with or without amendments that have been previously considered by the Planning Commission or at a hearing, and shall thereafter cause the Ordinance or amendment thereto to be published as required by law.

## **Sec. 26.04 Procedures:**

The procedure for making amendments to this Ordinance shall be in accordance with Act 110 of the Public Acts of 2006, as amended.

- a. A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form and, when it is approved, transmit it to the Township Planning Commission for review and report. The application must be received by the Township Clerk not less than forty-five (45) days prior to a regularly scheduled meeting of the Township Planning Commission. The Clerk shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Act 110, Public Act 2006, as amended. The Clerk shall also, for any proposed amendment to the Zoning Map, give notice thereof, and of the public hearing, to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of properties within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission prior to the hearing. The notice shall be sent not less than fifteen (15) days prior to the hearing.
- b. The Clerk shall give notice of hearing in the following manner:
  1. In a newspaper of general circulation in the Township, the notice shall be printed not less than fifteen (15) days before the date of the hearing.
  2. By mailing, using regular mail, not less than fifteen (15) days prior to the hearing, a notice of hearing to each gas, pipeline and telephone company that chooses to register its name mailing address with the Township Clerk for the purpose of receiving such notice. An affidavit of mailing shall be maintained.
  3. The notice shall include the following:
    - a. Describe the nature of the request.
    - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if not such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - c. State when and where the request will be considered.
    - d. Indicate when and where written comments will be received concerning the request.

## **Sec. 26.05 Application Information:**

The petitioner shall submit a detailed description of the petition to the Township Clerk. When the petition involves a change in the Zoning Map, the petitioner shall submit the following information:

- a. A legal description of the property.
- b. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- c. The name and address of the petitioner.
- d. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner.
- e. Date of filing with the Township Clerk.
- f. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- g. The desired change and reasons for such change.
- h. A description of the public and private infrastructure including water, sewer, septic, roads, sidewalks, trails, parks, and other utilities.

**Sec. 26.06            Fact Finding:**

- a. In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board, within sixty (60) days of the filing date of the petition.
- b. The facts to be considered by the Planning Commission shall include, but not be limited to, the following:
  - 1. Whether the requested zoning change is justified by a change in conditions since the original Ordinance was adopted or by an error in the original Ordinance.
  - 2. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
  - 3. The ability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
  - 4. Are there any significant and negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting permitted structures were built; including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources.
  - 5. Will there be any significant and negative impacts on the public and/or private infrastructure including water, sewer, septic, roads, sidewalks, trails, parks, and other

utilities if the rezoning was permitted.

6. Effect of approval of the petition on adopted development policies of Moran Township and other government units.
6. All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board. An amendment shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of Moran Township, or of other civil divisions where applicable.

### **Sec. 26.07 Conditional Rezoning:**

a. Intent.

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the Michigan Zoning Enabling Act (PA 110 of 2006) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

b. Application and Offer of Conditions.

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
5. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
  7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily in writing by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation
- c. Planning Commission Review.
1. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered in writing by the owner.
  2. In performing its review under this section, the Planning Commission may retain whatever planning and legal assistance it needs to permit it to adequately review the proposed conditional rezoning and the conditions to be attached thereto as well as the proposed Statement of Conditions which would be attached to the conditional rezoning as set forth in section E below.
  3. The cost of such legal and/or planning assistance shall be borne by the owner(s) of the subject property and the Township may require that the estimated cost of such legal and/or planning assistance be deposited with the Township prior to retaining such assistance. Following completion of the conditional rezoning process, any sums deposited with the Township in excess of the sum required for such legal and/or planning assistance shall be refunded forthwith to the owner(s). Likewise, any sums owed by the owner(s) to the Township in excess of those deposited shall be paid forthwith.
- d. Township Board Review.
1. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner in writing, then the Township Board shall, in accordance with the Michigan Zoning Enabling Act (PA 110 of 2006) refer such amendments to the Planning Commission for a

report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

2. In performing its review under this section, the Township Board may retain any additional planning and legal assistance it needs to permit it to adequately review the proposed conditional rezoning and the conditions to be attached thereto as well as the proposed Statement of Conditions which would be attached to the conditional rezoning as set forth in section E below.
3. The cost of such legal and/or planning assistance shall be borne by the owner(s) of the subject property and the Township may require that the estimated cost of such legal and/or planning assistance be deposited with the Township prior to retaining such assistance. Following completion of the conditional rezoning process, any sums deposited with the Township in excess of the sum required for such legal and/or planning assistance shall be refunded forthwith to the owner(s). Likewise, any sums owed by the owner(s) to the Township in excess of those deposited shall be paid forthwith.

e. Approval.

1. If the Township Board finds the rezoning request and offer of conditions acceptable and all fees due from the owner(s) have been paid, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - (a) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  - (b) Contain a legal description of the land to which it pertains.
  - (c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - (d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

- (e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
  - (f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- 3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- 4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The owner(s) of the subject land shall reimburse the Township for the cost of such recording, as well as any other costs provided for in this Ordinance, prior to implementing the use authorized by the conditional rezoning.
- 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.
- f. Compliance with Conditions.
  - 1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
  - 2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
- g. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not

been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

h. Reversion of Zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification. The reversion process shall be confirmed by the Township Board after receiving a report from the Zoning Administrator, concurred in by the Planning Commission after notice to the owner(s) of the subject property, that the approved development and/or use of the rezoned land did not occur within the time frame specified under Subsection G above.

i. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

j. Amendment of Conditions.

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

k. Township Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.

l. Failure to Offer Conditions.

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.