

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT

Sec. 300. - Enforcement:

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator, or any other employees, inspectors, and officials as designated by the Township Supervisor.

Sec. 301. - Duties of the Zoning Administrator:

The duties and responsibilities of the Zoning Administrator shall include the following:

1. Receive and review for completeness all applications for site plan review, special land uses, planned unit developments, or other matters that the Planning Commission is required to decide under this Ordinance and refer such applications to the Planning Commission, and where applicable, the Township Board for determination.
2. Receive and review for completeness all applications for appeals, variances, or other matters than the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.
3. Receive and review for completeness all applications for text or map (rezonings) amendments to this Ordinance and refer such applications to the Planning Commission and Township Board for determination.
4. Investigate complaints regarding violations of the Zoning Ordinance and make periodic site inspections to determine compliance with this Ordinance.
5. Implement the decisions of the Planning Commission, Zoning Board of Appeals, and Township Board.
6. Enforce and interpret the meaning and applicability of the requirements of the Zoning Ordinance.
7. Issue Certificates of Zoning Compliance.

Sec. 302. - Duties of Building Official:

1. The Building Official shall have the power to grant occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Official to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he or she has inspected such plans in detail and found them to conform with this Ordinance.
2. Under no circumstances is the Building Official permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his or her duties as Building Official.
3. The Building Official shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

Sec. 303. - Fees:

Fees for zoning change review, site plan review for projects requiring review under Section 903 Site plan review process, uses permitted subject to specific use provisions, special land use review, inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Township in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

Sec. 304. - Use of Consultants

From time to time, at the cost of the applicant, the Township may employ planning, engineering, legal, traffic, or other special consultants to assist in the review of special use permits, site plans, rezoning applications, or other matters related to the planning and development of the Township.

Sec. 305. - Development Agreements:

1. *Development agreement requirement.* Prior to the issuance of permits for a site plan, or planned unit development, based on the determination of the Zoning Administrator or Township Attorney, an applicant may be required to execute a development agreement, in a form approved by the Township, specifying all the terms and understandings relative to the proposed development. All costs incurred by the Township, including attorney fees, in drafting and approving the development agreement shall be paid by the applicant. Unless designated as optional, all improvements shown on the site plan shall be completed prior to the issuance of a certificate of occupancy. However, where it would be impractical to delay occupancy prior to the completion of certain improvements, a certificate of occupancy can be issued upon the approval of the Building Official if an adequate guarantee as required in Section 306 is presented to the Township to secure the improvements.
2. *Minimum terms.* The content of the agreement shall outline the specifics of the proposed development, but shall at a minimum provide the following terms:
 - A. Legal description of subject property.
 - B. A description of the ownership of the subject property.
 - C. A land use description, including a specific description of the proposed uses, density, lot dimensions, setbacks, and other dimensional standards.
 - D. Proposed method of dedication or mechanism to protect areas designated as common areas, open spaces, or conservation areas.
 - E. Description of required improvements to common areas, recreational facilities, and non-motorized pathways.
 - F. General description of any improvements to roads or utilities.
 - G. Mechanisms to ensure the continued maintenance of common areas, including but not limited to roadways, sidewalks, lighting, landscaping, utilities, and other site improvements.

- H. Provisions assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The Township may require conveyances or other documents to be placed in escrow to accomplish this.
- I. Provisions for the future financing of any improvement shown on the plan as site improvements, open space areas, and common areas, which are to be included within the development, and that maintenance of such improvements is assured by means satisfactory to the Township.
- J. Provisions to ensure adequate protection of natural features.
- K. Financial assurances in accordance with Section 306, Performance Guarantee, to guarantee the completion of all site improvements.
- L. Requirements that the applicant maintain insurance coverage during development in amounts established by the Township, naming the Township as an additional insured, and further, required insurance provisions after the development is completed.
- M. The site plan, special, planned unit development, or conditional rezoning shall be incorporated by reference and attached as an exhibit.
- N. Description of the timing to complete the development of the project. If the project is to be developed in phases, a timeline to complete the construction of each phase.

Sec. 306. - Performance Guarantee:

1. *Purpose and intent.* In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Township may require the applicant to deposit a performance guarantee for any or all site improvements required by this Ordinance.
 - A. The amount of such guarantee shall cover all improvements not normally covered in the building permit, i.e., berms, walls, landscaping, lighting, surfacing of drives, parking, service drives, acceleration/deceleration lanes, bypass lanes and other traffic control devices, etc. The guarantee shall include a schedule of costs assigned to the different improvements based upon an estimate submitted by the applicant and verified by the Township. The Township shall be authorized to employ the Township Engineer and/or other Township consultants to review cost estimates and conduct periodic inspection of the progress of improvements. Monies may be released to the applicant in proportion of work completed on the different elements after inspection of work and approval of the Building Official.
 - B. If more than one guarantee is involved in construction of the improvements required in this section, each such assurance shall be treated as a separate agreement and may be released upon satisfactory completion of such phase of construction and approval of the Building Official.
 - C. In instances where all improvements, as required in this section, are not completed, and a temporary certificate of occupancy is requested, the estimated cost of such improvement shall be verified by the Building Official, particularly with respect to any delay to another construction season. In those instances where the estimated cost has changed, then a revised

guarantee, acceptable to the Township, shall be filed with the Township covering such improvements.

2. *Procedure.*

- A. When a performance guarantee is required, said performance guarantee shall be deposited with the Township prior to the issuance of a building permit for the development and use of the land. Upon the deposit of the performance guarantee, the Township shall issue the appropriate building permit, and the Township shall thereafter deposit the performance guarantee, in the form of a cash deposit or certified check.
 - B. At the time the performance guarantee is deposited with the Township and prior to the issuance of a building permit, the applicant shall enter into an agreement with the Township incorporating the performance guarantee provisions.
 - C. The agreement shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
 - D. In the event the performance guarantee deposited is a cash deposit or a certified check, the Township shall rebate to the applicant, upon request from the applicant, fifty percent (50%) of the deposited funds when the applicant has completed seventy-five percent (75%) of the required improvements as confirmed by the Township. The remaining fifty percent (50%) of the deposited funds shall be returned when the applicant has completed one hundred percent (100%) of the required improvements and is in compliance with the Ordinance as confirmed by the Township.
 - E. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements.
 - F. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which such guarantee was posted, the applicant shall be required to pay the Township the amount by which the cost of completing the improvements exceeds the amount of the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.
3. *Guarantee with other agencies.* If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to ensure completion of an improvement associated with the site, the applicant shall not be required to deposit with the Township a performance guarantee for that same improvement.
4. *Site plan completion guarantee.*
- (1) Prior to the issuance of any building permit for any building, and prior to signing of the final plat by the Township Clerk in a platted subdivision, or prior to the issuance of any building permit for any building in a site condominium project, or prior to issuance of a

certificate of occupancy for any development which requires site plan review under this Ordinance, the applicant for same shall provide to the Township the following:

- a. A completion guarantee deposit to the Township. Said deposit shall guarantee completion of all site improvements shown on the approved final site plan or final preliminary plat. For the purpose of this section, completion shall mean inspection by the appropriate Township officials and/or other government agencies for compliance with the final site plan approved by the Planning Commission or preliminary plat finally approved by the Township Board, not less than six (6) months after all site plan or plat improvements have been installed.
 - i. The Township may require the guarantee deposit to cover one hundred twenty-five percent (125%) of landscaping cost and installation for up to one (1) year.
 - b. All site condominiums and subdivision plats shall comply with all of the rules and regulations for posting financial securities of the Township Subdivision Ordinance.
- (2) Site improvements shall mean, but shall not be limited to, drives and streets, curbs and gutters, sidewalks, water and sanitary sewer systems, drainage facilities and retention/detention basins, final grading and swales, retaining walls, landscaping and parking lots.
- (3) In the event the applicant fails to correct any deficiencies within thirty (30) days of written notice from the Township, the Township shall have the authority to use the guarantee to complete the site improvements, or repairs to said improvements, within a period of nine (9) months following the issuance of the last certificate of occupancy unless good cause can be shown by the applicant for the delay in completion. The Township may, at its sole discretion, agree in writing to a specific extension of the nine (9) month period. The Township may use the completion guarantee to hire sub-contractors to complete work, fund inspections and for the administration of the required work including legal fees.
- (4) The guarantee, or portion thereof, shall be promptly released upon the inspection and approval of all improvements in compliance with the approved final site plan or special use permit and all applicable Township standards and specifications. Portions of the guarantee may be released, in not more than three (3) installments, provided:
- a. The project or approved phase of a project has been completed for six (6) months and the improvements for which the release is requested have been inspected and approved in accordance with the above standards, and the remaining balance is sufficient to cover the remaining improvements, including administrative and contingency expenses.
- (5) *Types of completion guarantees.* The applicant may provide a guarantee in the form of a cash deposit or certified check, or in the form of a letter of credit in a form acceptable to the Township. Letters of credit shall be valid for a period of one (1) year past the anticipated request for the last certificate of occupancy for the entire project and shall contain language acceptable to the Township, that thirty (30) days prior to its expiration the letter of credit shall automatically renew for one (1) year periods unless the issuer of the security sends by certified mail to the Township a notice of its intention to not renew the financial security not less than (60) days prior to the expiration of the security.

Sec. 307. - Public Hearing Notice Requirements.

1. *When required.* Public hearings are required in those instances where public hearings are required by this Ordinance and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended, M.C.L. 125.3101 et. seq.)
2. *Notice requirements.* Notice shall be given not less than fifteen (15) days before each public hearing at which an application will be considered. Notice shall be given by publication in a newspaper that circulates in Charter Township of Ypsilanti, and by personal delivery or mailing, where required, to the following:
 - A. The applicant, and the owner(s) of the property, if the applicant is not the owner.
 - B. All persons to whom real property is assessed within three hundred (300) feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within Ypsilanti Township.
 - C. The occupants of any structures within three hundred (300) feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within Ypsilanti Township, except as set forth below.
 - D. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 - E. The notice under this section is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
3. *Actions exempt from notification.*
 - A. Requirements for individual notice to property owners shall not apply to Ordinance text amendments.
 - B. For any group of adjacent properties numbering eleven (11) or more that is proposed for rezoning, the requirement for individual notice as set forth in sub-section 307.2 does not apply to that group of adjacent properties.
4. *Content of notice.* The notice shall include:
 - A. The nature of the request.
 - B. The property(ies) for which the request has been made.
 - C. A listing of all existing street addresses within the property(ies) which is (are) the subject of the request. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.
 - D. The location where the application documents can be viewed and copied prior to the date the hearing.

- E. The date, time, and location of when the hearing on the application will take place.
- F. The address at which written comments should be directed prior to the hearing.

Sec. 308. - Establishment of a Planning Commission with zoning authority:

1. *Scope, purpose, and intent.* The purpose of this Ordinance is to provide that the Township Board of Trustees shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., of the Charter Township of Ypsilanti Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., to establish the appointments, terms, and membership of the Planning Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

This Ordinance is adopted pursuant to the authority granted the Charter Township of Ypsilanti Board (hereinafter Township Board) under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq., to establish a Planning Commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this Ordinance and any future amendments to this Ordinance.

2. *Membership.* The Planning Commission shall have seven (7) members. Members of the Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq.
3. *Appointments and terms.* Subject to approval by a majority vote of the elected and serving members of the Township Board, the Township Supervisor shall appoint all members of the Planning Commission, including one member of the Township Board who shall serve as an ex officio member with full voting rights. The Planning Commission members, other than the ex officio member, shall serve for terms of three (3) years each. The ex officio member's term shall expire with his or her term on the Township Board. A Planning Commission member shall hold office until his or her successor is appointed. A vacancy shall be filled by appointment to the unexpired term in the same manner as the original appointment. Other than the ex officio member, no other elected officer or employee of the Township is eligible to be a member of the Planning Commission.

Planning commission members shall be qualified electors of the Township, except that one (1) Planning Commission member may be an individual who is not a qualified elector of the Township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable.

4. *Removal.* The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
5. *Conflict of interest.* The Planning Commission shall in its bylaws provide rules regarding what constitutes a conflict of interest.
6. *Compensation.* The Planning Commission members may be compensated for their services as provided by Township Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.
7. *Officers and committees.* The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. A member of the Township Board is not eligible to serve as chairperson. The term of each office shall be one (1) year, with opportunity for reelection as specified in the Planning Commission bylaws.

The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

8. *Bylaws, meetings and records.* The Planning Commission shall adopt bylaws for the transaction of business.

The Planning Commission shall hold at least four (4) regular meetings each year and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by two (2) other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least forty-eight (48) hours before the meeting.

The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq.

The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et seq.

9. *Annual report.* The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development.
10. *Authority to make master plan.* Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the Township's planning jurisdiction. The procedure for adoption or amendment of a master plan shall be as prescribed in Article III of the Act, MCL 125.3831 through 125.3851.

Final authority to approve a master plan or any amendments thereto shall rest with the Township Board after recommendation of the Planning Commission in accordance with the Act. The

Township Board shall pass a resolution in accordance with MCL 125.3843(3) asserting its right to approve or reject a master plan.

Unless rescinded by the Township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq.

11. *Zoning powers.* The Township Board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271 et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq.; or other applicable zoning statutes to the Charter Township of Ypsilanti Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq.

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the Township Board.

12. *Subdivision and land division recommendations.* The Planning Commission may recommend to the Township Board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than fifteen (15) days before the hearing by publication in a newspaper of general circulation within the Township.

The Planning Commission shall review and make recommendation on a proposed plat before action thereon by the Township Board under the Land Division Act, Public Act 288 of 1967, MCL 560.101 et seq. The Planning Commission shall recommend approval, approval with conditions, or disapproval of a plat within sixty-three (63) days after the plat is submitted to the Planning Commission unless the plat proprietor waives this requirement and consents to an extension of the sixty-three (63) day period. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than fifteen (15) days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.