

ARTICLE 12: ADOPTION AND AMENDMENTS

Section 12.0 - Amendment to this Ordinance

- A. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in Act 110 of 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Secord Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.
 2. Proposals for amendments, supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
 3. The procedure to be followed for initiating and processing an amendment shall be as follows:
 - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.
 - b. The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time he/she transmits the amendment request to the Planning Commission.
 - c. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
 - d. The public notice procedure shall be the same as that contained in **§10.3**.
 - e. **Rezoning Standards:** The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.
 - i. Is the proposed rezoning consistent with the Secord Township Master Plan?
 - ii. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
 - iii. Will there be an adverse physical impact on surrounding properties?

- iv. Will there be an adverse effect on property values in the adjacent area?
 - v. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
 - vi. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - vii. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
 - viii. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
 - ix. Is the site served by adequate public facilities or is the petitioner able to provide them?
 - x. Are there sites nearby already properly zoned that can be used for the intended purposes?
- f. Following the public hearing, the Planning Commission shall submit the proposed amendment including any zoning map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
- g. The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
- h. The Township Board may hold a public hearing if it considers it necessary or if otherwise required. Notice of such hearing shall be published using the procedures in **§10.3**.
- i. The Township Board shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the Township Clerk. Notice of such hearing shall be published using the procedures in **§10.3**.
- j. The Township Board may refer any proposed amendments to the Planning Commission for consideration and comment within a time specified by the Township Board.
- k. After any such public hearing as allowed under **§12.0.A.3.h-i**, the Township Board shall consider and vote upon the adoption of a zoning ordinance amendment. A zoning ordinance amendment shall be approved by a majority vote of the members of the Township Board.

- I. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) business days after publication or at a later date as may be specified by the Township Board at the time of adoption.
- m. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Township Planning Commission to be valid.

Section 12.1 - 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 Section 405 of the Zoning Enabling Act (MCL125. 3405) 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. Additional fees may apply as determined by the Township Board based on the content of the 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. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- 5. 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.
- 6. 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 Planning Commission in accordance with the provisions of this Ordinance.

7. 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.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily 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's 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, 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 by the owner.
2. Township Board Review, 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. 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, then the Township Board shall, have the option, but not be required to refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter to deny or approve the conditional rezoning with or without amendments.
3. **Approval:**
 - a. If the Township Board finds the rezoning request and offer of conditions acceptable, 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.
 - b. The Statement of Conditions shall:
 - i. Be in a form recordable with the Register of Deeds of Gladwin County 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.

- ii. Contain a legal description of the land to which it pertains.
 - iii. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - iv. 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.
 - v. 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 Gladwin County.
 - vi. 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.
- c. 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.
- d. 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 Gladwin County. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- e. 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.
- i. 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.
 - ii. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law. 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.

Section 12.2 - Conflicting Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other Township law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.

The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics. Photographs and illustrations marked "example" or text marked "commentary" is not regulatory and is provided for illustrative purposes only.

Section 12.3 - Severability

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declared that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 12.4 - Repeal and Savings Clause

- A. This Ordinance repeals and replaces any previous Secord Township Zoning Ordinance in its entirety.
- B. The repeal of any previous Secord Township Zoning Ordinance, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any of the provisions of said ordinance or parts thereof. Said ordinance or ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

Section 12.5 - Enactment and Effective Date

- A. This Ordinance was adopted on December 17, 2014,, by the Secord Township Board of Trustees and will be effective January 8, 2015. The foregoing Zoning Ordinance and Zoning Map were presented at a public hearing before the Planning Commission on November 1, 2014.
- B. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the expiration of seven (7) days or at a later date specified by the Township Board after publication of a notice of adoption of said amendments or revisions within fifteen (15) days of adoption in accordance with Section 401 of PA 110 of 2006, as amended.