

ARTICLE 10

AMENDMENT & ADOPTION

Section 10.0 Amendment to this Ordinance

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.

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Greenbush Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Planning Commission.
- B. 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.
- C. **FILING FEE:** Application for amendment shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be refundable to a petitioner. No fee shall be charged when the amendment is initiated by the Greenbush Township Planning Commission or Township Board.

Section 10.1 Amendment Procedure

- A. **APPLICATION:** A Petitioner shall submit a completed and signed application for Ordinance amendment, along with the appropriate fees, to the Township Clerk. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- B. **ACTION OF CLERK:** The Township Clerk shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission.
- C. **NOTICE OF HEARING:** After transmitting the amendment application to the Planning Commission the Clerk shall establish a date for a public hearing on the application which will be conducted by the Planning Commission within 45 days of the date of application receipt. The Clerk shall give notice of the public hearing pursuant to **§9.5**.
- D. **APPLICATION INFORMATION:**

When the petition involves a change in the Zoning Map, the applicant shall submit the following information to the Township Clerk:

AMENDMENT & ADOPTION

1. A legal description of the property.
 2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
 3. The name and address of the applicant.
 4. The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner.
 5. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
 6. The desired change and reasons for such change.
- E. **PLANNING COMMISSION CONSIDERATION:** 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.
- F. **REZONING STANDARDS:** The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.
1. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
 2. Will there be an adverse physical impact on surrounding properties?
 3. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
 4. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
 5. 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)?
 6. What is the impact on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
- G. **FINDINGS OF FACT:** The Planning Commission shall submit a final report indicating findings of fact/recommendation to the Township Board along with a summary of the comments received at the public hearing.

AMENDMENT & ADOPTION

H. **OUTSIDE AGENCY REVIEW:** In determining the above-mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but not limited to, the following agencies:

1. Alcona County Health Department
2. Alcona County Road Commission
3. Alcona County Drain Commission

I. **TOWNSHIP BOARD REVIEW:**

1. 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 **§9.5**. The Township Board shall grant a hearing on a proposed Ordinance amendment 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 **§9.5**.
2. After receiving the recommendations of the Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the full membership of the Township Board. The Township Board may refer any proposed amendments to the Planning Commission for consideration and comment. The Planning Commission shall have sixty (60) days from such referral to make further recommendations to the Township Board. In the event that an application is referred back to the Planning Commission, the Township Board shall make specific mention of their objections to the Planning Commission's findings and recommendations. In order to lessen the possibility of adverse litigation concerning the zoning district decisions of the Township Board, the Township Board shall make a written record of the rationale for the action taken on each application for amendment to this Ordinance.

J. **PUBLICATION:** 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.

K. **RE-SUBMITTAL OF APPLICATION FOR REZONING:**

An owner of property, his/her authorized agent, or other person, shall not initiate action for rezoning affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that conditions affecting the property have changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

Section 10.2 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 Section 405 of the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended) (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.

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 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 use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the special use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. 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, is such withdrawal occurs subsequent to the Planning and Zoning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning and Zoning Commission for a new public hearing with appropriate notice and a new recommendation.

AMENDMENT & ADOPTION**C. Planning Commission Review**

The Planning Commission, after public hearing as set forth in **Section 9.5** of this Ordinance and consideration of the factors set forth in **Section 10.1 (F)** of this Ordinance, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. Township Board Review

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested conditional rezoning and may approve or deny the request. 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, in accordance with Section 401 of Act 110 of the Public Acts 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.

E. Approval

1. 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.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Alcona County Register of Deeds, or as an 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 the legal description and tax identification number 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.

AMENDMENT & ADOPTION

- 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 County Register of Deeds.
 - f. Contain the notarized signatures of all 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 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 County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe 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.
 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all 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 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 Ordinance and be punishable accordingly.
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, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within twenty four (24) months after the rezoning took effect and thereafter proceeded diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to 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 the approved development and/or use of the rezoned land do not occur within the timeframe specified under Subsection G above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

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 I above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the County Register of Deeds 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 and/or use specified pursuant to Subsection H 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 or 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 (Act 110 of the Public Acts of 2006, as amended).

L. Failure to Offer Conditions

The Township shall not require any 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.

Section 10.3 Comprehensive Review of Zoning Ordinance

The Planning Commission shall, at intervals of not more than five (5) years, examine the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the Township Board recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

Section 10.4 Interpretation and Conflicts

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare of the Greenbush Township. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 10.5 Severance Clause

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

Section 10.6 Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

Section 10.7 Repeal and Savings Clause

- A. This Ordinance repeals and replaces any previous Greenbush Township Zoning Ordinance in its entirety.

AMENDMENT & ADOPTION

A. The repeal of any previous Zoning Ordinance, as provided, shall not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted. 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 10.8 Enactment and Effective Date

A. This Ordinance was adopted on _____ by the Greenbush Township Board and will be effective _____. The foregoing Zoning Ordinance and Map of Zoning Districts were presented at a public hearing before the Greenbush Township Planning Commission on _____.

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 Greenbush 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.

I hereby certify that the above Ordinance was adopted by the Greenbush Township Board at a regular meeting held on _____.

Township Clerk

Published: _____

Effective Date: _____

Affidavit of Publication Required.