

## ARTICLE 9

### ADMINISTRATION & ENFORCEMENT

#### Section 9.0 Enforcement

- A. The provisions of this Ordinance shall be administered in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
- B. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies as the Township Board may delegate to enforce the provisions of this Ordinance.

#### Section 9.1 Duties of the Zoning Administrator

- A. The Zoning Administrator shall have the power to grant zoning permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.
- B. The Zoning Administrator 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.
- C. Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his/her duties as Zoning Administrator.

#### Section 9.2 Permits

- A. No building or structure shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any use subject to the provisions of this Ordinance be commenced until a Zoning Permit application has been filed with the Greenbush Township and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise provided for in this Ordinance. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. Exempted from the permit requirements are exterior alterations and ordinary maintenance repairs that do not require a building, mechanical, electrical or plumbing permit.
- B. A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits which are contingent upon the issuance of a zoning permit.
- C. Expiration of Land Use or Building Permit. If the work described in any permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator.

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- D. If the work described in any permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building and land use permit has been obtained.
- E. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- F. No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board.
- G. Conformance with Approved Plans: Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications. Any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.
- H. Any person, partnership, limited liability company, corporation, association or other entity who fails to obtain any necessary permit, whether it be a zoning compliance permit, sign permit, fence permit, etc. shall be subject to a late fee as determined by the Greenbush Township Board.
- I. The following shall apply in the issuance of any permit:
  - 1. PERMITS NOT TO BE ISSUED: No zoning permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.
  - 2. PERMITS FOR NEW USE OF LAND: No land heretofore vacant shall hereafter be used unless a zoning permit is first obtained for the new use.

**Section 9.3 Fees**

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a Fee Schedule establishing basic zoning fees.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the

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members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.

- C. If the Zoning Administrator, Planning Commission, or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission, or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit, and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or prior to the final decision on an appeal.

### Section 9.4 Performance Guarantee

In connection with the construction of public and site improvements through site plan approval, Special Land Use approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the

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public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements;
- B. Another one-third (1/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

### Section 9.5 Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, and the other provisions of this Section with regard to public notification.

- A. **PUBLISHED NOTICE:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the zoning staff shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Greenbush Township and mailed or delivered as provided in this Section.
- B. **CONTENT:** All mail, personal and newspaper notices for public hearings shall:
  1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.
  2. Location: Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.

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3. When and where the request will be considered: indicate the date, time and place of the public hearing(s).
4. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. Disabled access: Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

### C. PERSONAL AND MAILED NOTICE

1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
  - a. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.
  - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within Greenbush Township. If the name of the occupant is not known, the term "occupant" may be used in making notification. 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 individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, 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.
  - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to **subsection E below**.
2. Notice Deemed Given: Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid. Zoning staff shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

- D. **TIMING OF NOTICE:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

**ADMINISTRATION & ENFORCEMENT****E. REGISTRATION TO RECEIVE NOTICE BY MAIL**

1. **GENERAL:** Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval pursuant to **subsection (C)(1)(c)** above or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall be responsible for providing this notification, as established by the Township Board.
2. **REQUIREMENTS:** The requesting party must provide the Township Clerk information to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.

**Section 9.6 Violations****A. CIVIL LAW:**

Any building, structure or use which is constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

**B. MUNICIPAL CIVIL INFRACTION:**

Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a municipal civil infraction. Any person who violates this Ordinance or fails to comply with any of its requirements shall be guilty of a municipal civil infraction and be fined not more than five hundred dollars (\$500) for each offense and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate and distinct offense under the provisions of this Ordinance.

**C. REMEDIES:**

The Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

**D. INSPECTION:**

The Zoning Administrator or his deputy shall have the responsibility to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

**Section 9.7 Planning Commission**

- A. In cases where the Greenbush Township Planning Commission is empowered to approve certain uses of premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.
- B. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties who may, in its opinion, be affected thereby of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.
- C. Any approval given by the Planning Commission, under which premises are not used or work is not started within one (1) year or when such use or work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect. The Planning Commission may extend this time period one (1) additional year upon request of the applicant or property owner.
- D. The Planning Commission shall not have the power to change the zoning classification of any property, nor to grant variances from any terms or requirements of this Ordinance except as specifically granted in this Ordinance.

**Section 9.8 Conditions**

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under its respective jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

**ADMINISTRATION & ENFORCEMENT****Section 9.9 Rehearing Process**

- A. **REHEARING PERFORMED BY PLANNING COMMISSION OR ZBA:** The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:
1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
  2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
  3. The Township attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. **REHEARING PROCEDURE:** A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
1. **Time Limit:** A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date on which the applicant receives notification regarding the decision for which the rehearing is being requested.
  2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
  3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
  4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.