

ARTICLE 23
ADMINISTRATION AND ENFORCEMENT

Sec. 23-01 Duties of the Township Planner

(a) Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Township Planner or such other official or officials as may be designated by the Township Board; provided, that special land use permits and certain site reviews shall be carried out by the Township Planning Commission, and shall precede an issuance of permits.

(b) The Township Planner shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, discontinuance of any illegal construction, or shall take any other lawful action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.

Sec. 23-02 Duties of the Building Official

(a) The Building Official shall have the power to grant 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 has inspected such plans in detail and found them to conform to this Ordinance.

(b) Under no circumstances is the Building Official to make changes to this Ordinance or vary the terms of this Ordinance in carrying out his duties as Building Official.

(c) 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 the permit.

Sec. 23-03 Plot Plan

The Building Official shall require that all applications for building permits be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (a) The actual shape, location, and dimensions of the lot.
- (b) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
- (c) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (d) Other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

Sec. 23-04 Permits

The following shall apply in the issuance of any permit:

- (a) **Permits not to be Issued.** No building 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 the provisions of this Ordinance.
- (b) **Permits for New Use of Land.** No vacant land shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

Permits for New Use of Buildings. No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

- (d) **Permits Required.** No building or structure, or part thereof, shall be hereafter erected, altered, expanded, moved, or repaired unless a building permit shall have been first issued for the work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, change in or any additional use or occupancy not previously specifically approved by permit and/or certificate as required, or change in light or ventilation, means of egress and ingress, or other changes affecting or regulated by the Township Building Code or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.
- (e) **Compliance Deposits.** No permits shall be issued until a deposit, in an amount established by the Township Board, has been placed at the disposal of the Township as set forth hereafter.

Such deposit shall be held by the Township and applied as required to defray all expenses necessary to secure compliance by the permit holder to the conditions of the permit; including but not limited to, saving the Township and/or the public harmless from any damage to the health, safety and welfare of the community, administrative expenses, legal fees and court costs.

- (f) **Notification of Permit Expiration.** If any work for which a permit is required is not completed within one (1) year of the date of issuance of the permit, or within one (1) year of the date of any renewal thereto, the Building Official shall send a letter of notification of permit expiration to the permit holder, at least two (2) weeks prior to the permit expiration date, requesting the work under the permit be completed or renewed prior to the expiration date. If the permit is allowed to expire, a second and final notice of forfeiture of the permit deposit will be sent to the permit holder by ordinary mail allowing the permit holder thirty (30) days to renew the permit or complete the permit requirements prior to

forfeiture of the permit deposit to the Township and termination of the permit.

- (g) **Renewal of Permits.** Permits may be renewed for one (1) year periods of time upon application of the permit holder and approval by the Building Official. The permit holder must be making reasonable progress toward completion of the permit to obtain an extension. Upon renewal of a permit, the permit holder shall replenish the cash deposit in the amount established in (e) above.
- (h) **Forfeiture.** If any structure is occupied prior to issuance of an occupancy use permit or certificate of completion, the permit deposit shall be immediately forfeited to the Township. If any work for which a permit is required is not completed within one (1) year of the issuance date of the permit, or within one (1) year of the issuance of any renewal thereof as set forth in (f) above, the permit deposit shall be immediately forfeited to the Township.
- (i) **Interest.** All interest earned on permit deposits shall be to the property of the Township.
- (j) **Unclaimed Permit Deposits.** Upon completion of all work required by the terms of the permit and approval of the Building Official, the unused permit deposit, less accumulated interest, shall be refunded to the permit holder. If a permit deposit remains unclaimed for a period of five (5) years or more from the date of completion of the work and approval of the Building Official, the Building Official shall send a written notice of forfeiture to the permit holder, at the last known address of the permit holder on the records of the Township, by ordinary mail, declaring that unless the remaining permit deposit is claimed within one hundred twenty (120) days from the date of the notice, the remaining permit deposit shall immediately be escheated to the State of Michigan. If the permit holder claims the remaining permit deposit within the one hundred twenty (120) days, it shall be refunded after deduction of the following fees as may be established by the Township Board: inspection fees, custodial charges, service fees and bookkeeping costs. Escheatment of the permit deposit does not prevent the Township from seeking any other remedies as may be available in law or equity for securing compliance by the permit holder with the terms of the permit issued.

(k) **Exception-Permits for Non-Conforming Uses.** Permits may be issued for a non-conforming use when said use complies with the following: the use may be reasonably expanded, modified, or abandoned in whole or in part, provided that the modification in use, and the modification in any structure, or the building of any structure thereon, shall move said building or land in closer conformity to a conforming use, and/or which modification shall not be inconsistent with the conforming use of the land nearest the non-conforming uses to be modified.

(l) **Changes in Use**

(1) All changes in use shall be reviewed by the Building Official and shall not be approved unless and/or until any and all such proposed changes strictly comply with all requirements set forth in this Ordinance.

(2) Any proposed alteration or modification to a building site, building, and/or structure which could or would create a drainage deficiency, either on the site in question or the adjacent properties, shall be remanded to the Township Engineer for review, disposition, and recommendation for correction which shall be made under the direction of the Building Official.

(3) Prior to any change in use, the owner and/or proprietor shall obtain fire safety, electrical, mechanical, plumbing, and general building inspection approvals at such fees as the Township Board shall set by resolution.

(4) Upon compliance with the requirements set forth by this Ordinance and the Michigan State Construction Code, a Certificate of Use and Occupancy shall be issued for all use changes. No building or property shall be occupied prior to compliance herewith.

(5) Failure to comply with the provisions herein set forth shall subject the owner and/or proprietor to the penalties of this Ordinance as provided in *Section 23-09*, and all such

provisions and penalties shall be enforced by any court with appropriate jurisdiction.

5 (m) **Temporary Permits.** The following provisions apply to permits being granted for the placing of trailers temporarily on property in Brighton Township:

10 (1) The Building Official may, upon application signed by all of the owners of the premises containing the owners' addresses and the limitations of the request, issue permits for the placing of temporary construction trailers for a period not to exceed sixty (60) days. If the permittee intends to maintain the temporary construction trailer for a period in excess of sixty (60) days, they shall forthwith make application to the Township Board for any period in excess of the original sixty (60) day period and shall agree in writing to remove the temporary construction trailer at the end of the time permitted, either by the Building Official or the Township Board.

20 (2) Temporary residential trailers, when in compliance with the State Construction Code, may be allowed by permit of the Township Building Official for a period not to exceed one hundred twenty (120) days at the site of any catastrophic destruction of a building. The application shall be in writing, signed by all owners of the premises, shall comply with all the Ordinances of the County of Livingston and statutes of the State of Michigan as they apply to the public health code of the State of Michigan. In the event that the owner desires to apply for the permit for a period of time in excess of one hundred twenty (120) days, the application shall be made forthwith to the Township Board upon the Building Official's initial issuance of the one hundred twenty (120) day permit, shall be in writing signed by all owners of the premises, shall contain the time limitation requested and agreement to remove the trailer at the expiration of that term, and shall be approved in writing by the Township Board provided that its issuance shall not interfere with the rights of adjoining land owners and shall comport to all setbacks, side yards, and applicable zoning requirements, and shall be placed in as unobtrusive a manner as possible so as not to interfere with

the adjoining landowners.

5 (3) No permit shall be issued until a cash deposit, in an amount established by the Township Board, has been placed at the disposal of the Township and administered as set forth in sub-paragraphs (e) through (j) above.

10 (n) No building 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 of the provisions of the State of Michigan Construction Code and all of the Building Ordinances of the Charter Township of Brighton, as amended. In the event that there is any conflict between any of the above-named Ordinances, the Building Code of the State of Michigan as
15 amended, shall control and override, unless and in the event that the erection, alteration or use of the building or structure in question or part thereof is specifically exempted by provisions of this Ordinance.

20 (Ord. #246, 12/25/09), (Ord. #243, 8/1/08)

Sec. 23-05 Certificates

25 No land, building, or part thereof, shall be occupied or re-occupied by or for any use unless and until a certificate of occupancy shall have been issued for each such use or new use, or additional use. The following shall apply in the issuance of any certificate:

30 (a) **Certificates not to be Issued.** No certificates of occupancy shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.

35 (b) **Certificates Required.** No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

(c) **Certificates for Site Plans.** No building, structure or land shall be used, for which a site plan was approved by the Planning Commission, until such

time as the engineer or architect responsible for the design presents to the Building Official either sealed and signed plans or a letter with seal indicating complete compliance with the approved site plan of record.

5 (d) **Certificates, including Zoning.** Certificates of occupancy as required by the Township Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.

10 (e) **Certificates for Existing Buildings.** Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance.

15 (f) **Records of Certificates.** A record of all certificates issued shall be kept on file in the office of the Building Official, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

20 (g) **Certificates for Dwelling Accessory Buildings.** Buildings or structures accessory to dwelling shall not require separate certificate of occupancy, but may be included in the certificate of occupancy, for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

25 (h) **Temporary Certificates of Occupancy.** Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that such temporary certificates of occupancy shall not remain in force longer than a period of one
30 (1) year or for a period of time as determined by the Building Official after the building or structure is fully completed and ready for occupancy; and provided further, that such portions of the buildings or structures are in conformity with the provisions of this Ordinance. If such temporary certificates of occupancy are requested, the Township Building Official may
35 require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit or surety bond, in an amount equal to the total estimated cost of completing construction of the specific site improvement including contingencies, as established by the Township Building Official based upon

an estimate prepared by the permittee or his authorized representative and approved by the Township Engineer.

5 No certificate of occupancy shall be issued whether or not a temporary certificate of occupancy has been issued unless the following standards have been met:

10 (1) That the building or structure is in full conformity with this Ordinance and the State of Michigan Construction Code and/or Charter Township of Brighton Building Code.

15 (2) That the interior space to be lived in or otherwise used is finished so as to meet minimum square foot standards of this Ordinance for the particular type of dwelling unit or other use as specified in the zoning district wherein located.

20 (3) That the term "finished" noted in subsection b. above means that all interior walls and ceilings shall be sealed with dry wall or other approved material, that all floors shall be covered with a surface permitting safe and sanitary walking thereon, and that said finished space shall otherwise meet all requirements of the State of Michigan Construction Code and/or the Charter Township of Brighton Building Code.

25 (4) That other space provided in any building or structure in excess of minimum Ordinance requirements shall be so completed as not to cause hazards to occupants therein by reason of exposed wiring, plumbing, stairwells, or inadequate protection from weather conditions.

30 (i) **Application for Certificates.** Application for certificates of occupancy shall be made in writing to the Building Official on forms furnished by that department, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this
35 Ordinance.

If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period. If

not issued within the five (5) day period, this default shall not be grounds for invalidating the enforceability of this Ordinance.

(Ord. #243, 8/1/08)

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Sec. 23-06 Final Inspection

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The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Building Official immediately upon the completion of the work authorized by such permit, for final inspection.

Sec. 23-07 Fees

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Fees for inspection and the issuance of permits or certificates of copies thereof required or issued under the provisions of this Ordinance may be collected by the Building Official in advance of issuance. Fees shall be required for review of site plans, engineering plans, special land use applications, petitions for rezoning, traffic impact studies, and site inspections. 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.

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Sec. 23-08 Performance Guarantee

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(a) Where in this Ordinance there is delegated to the Township Board, Zoning Board of Appeals, or the Planning Commission, the function of establishing certain physical site improvements, engineering, supervision, and review as a contingency to securing a special land use approval, site plan approval, or variance, the Township Board, Board of Appeals, or the Planning Commission may, to insure strict compliance with any regulation contained or required as a condition of the issuance of a permit, or variance, require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit, or surety bond. The performance guarantee shall be deposited with the Township Treasurer in an amount determined by the Township Board, Zoning Board of Appeals, or the Planning Commission to be reasonably necessary to insure compliance hereunder. The amount of the performance guarantee shall be based on the recommendation of the Township Engineer who shall consider the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator,

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5 estimated expenses to compel operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

10 (b) The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township may not require the deposit of the performance guarantee before the date on which the Township is prepared to issue the permit.

15 (c) The Township shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Section 505 of the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended.

(Ord. #248, 1/22/10)

20 **Sec. 23-09 Violations**

25 (a) **Public Nuisance Per Se.** Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

30 (b) **Fines, Imprisonment.** The owner of any building, structure, or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof, shall be liable to the fines and imprisonment herein provided.

35 (c) **General Penalties and Sanctions for Violations of this Codified Ordinance; Continuing Violations; Injunctive Relief**

(1) Unless a violation of this Ordinance is specifically designated in this Ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(2) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding ninety (90) days or both, unless a specific penalty is otherwise provided for the violation by this Ordinance.

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(3) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Ordinance or otherwise established by resolution of the Township Board, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

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a. Unless otherwise specifically provided for by this Ordinance the civil fine for a municipal civil infraction violation shall not be less than \$50.00, plus costs and other sanctions, for each infraction.

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b. Increased civil fines may be imposed upon a person for repeated violations of any requirement or provision of this Ordinance. As used in this section, "repeat offense" means a second (or subsequent) municipal civil infraction violation of the same requirement or provision:

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1. Committed by a person within any six (6) month period (unless some other period is specifically provided by this Ordinance); and

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2. For which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Ordinance, the increased fine for a repeat offense shall be as follows:

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(i) The fine for any offense which is a first repeat offense shall be not less than \$250.00 plus costs.

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(ii) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500.00, plus costs.

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(iii) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance; and

any omission or failure to act where the act is required by this Ordinance.

5 (iv) Each day on which any violation of this ~~codified~~ Ordinance or continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

10 (v) In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Ordinance.

Sec. 23-10 Amendments

15 (a) The Township Board may, from time to time, on recommendation, amend, supplement, or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended.

20 (b) Upon presentation to the Township Planning Commission of petition for amendment of this Ordinance by owner of real estate to be affected, or, such petition shall be accompanied by a fee, the amount of which shall be set by Resolution of the Township Board; such fee shall be paid to the Township.

25 (c) **Processing of Proposed Zoning Map Amendments (Rezoning)**

30 (1) **Application for Zoning District Change.** With the exception of an application for a change to PUD, Planned Unit Development, as stated in *Article 12* of this Ordinance, petitions for rezoning of a specific lot or parcel(s) shall comply with the requirements stated in this section and must be accompanied by:

35 a. A signed application including proof of ownership from the applicant(s).

40 b. A plot plan or survey, drawn to a minimum scale of 1" = 200' produced and sealed by a registered engineer, surveyor, land planner, or landscape architect containing all of the following information:

1. Name, address, and telephone number of owner and/or agent.
 - 5 2. Legal description of property proposed for change; total acreage involved.
 3. Scale, north arrow, and date of submission and dates of all revisions.
 - 10 4. A location map indicating major roads and section numbers.
 - 15 5. Zoning classification of petitioner's parcel, all abutting parcels, and all parcels within five hundred (500) feet of the site.
 - 20 6. Existing lot lines, building lines, structures, parking areas, and driveways within five hundred (500) feet of the site.
 - 25 7. Locations and dimensions of all structures, improvements to land, and land uses on the site and within five hundred (500) feet of the site.
 8. Site dimensions, distance to road centerlines, and right-of-way widths of all abutting roads and alleys, sight distances from public roads for all proposed accessways.
 - 30 9. Location of natural features such as: existing drainage courses, wetlands, floodplain, streams, and woodlots.
 - 35 10. All existing and proposed easements or proposed rights-of-way.
 11. Information regarding soil types, location of any sanitary sewer systems either existing or proposed.
 - 40 12. Location, size, and/or capacity of all existing utility lines abutting, entering, or proposed to service the site.
- c. Traffic Impact Study may be required at the Planning Commission's request when the potential uses may generate traffic

that exceeds trip generation rates recognized by the Institute of Traffic Engineers (ITE) in accordance with *Section 18-09*.

5 d. A sign shall be posted on the property by the applicant indicating that the property is proposed to be rezoned in accordance with the following:

1. The sign shall be four (4) feet by eight (8) feet in size.

10 2. The sign shall be erected in full public view along the road frontage.

15 If the property to be rezoned is located at an intersection, a sign for each road frontage must be provided which must be readable from the adjacent roadway.

The sign shall state “THIS PROPERTY IS PROPOSED TO BE REZONED”.

20 The sign shall include the current and proposed zoning, area in acres of the property, and a generalized map of the property.

25 Such sign shall indicate to contact the Planning Department for information regarding the date, time, and location of the Planning Commission public hearing i.e. when and where the proposal will be reviewed.

30 The sign shall be erected twenty-one (21) days prior to the scheduled public hearing.

The applicant shall be responsible for erecting, maintaining through the public hearing date and removing the sign. The sign shall be removed three (3) days after the public hearing.

35 The required sign shall be exempt from the regulations of *Article 17*.

40 Sign lettering size shall be eight (8) inches for the first line announcing the rezoning and four (4) inches for all other text and must be readable from the adjacent roadway.

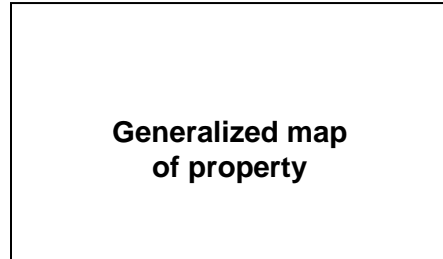
THIS PROPERTY IS PROPOSED TO BE REZONED

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Current Zoning:
Proposed Zoning:

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__ acres



Planning Commission Public Hearing
4363 Buno Road

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Contact Planning Dept. for more information

(2) **Review Procedures.** After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:

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a. **Township Planning Commission Review.** The petition shall be placed on the agenda of a regularly scheduled meeting of the Planning Commission. The Planning Commission shall review the petition for amendment in accordance with the procedures and public hearing and notice requirements set forth in the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended. Notice of the hearing shall be given in accordance with *Section 23-11*.

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b. **Action by the Planning Commission and County Review.** Following the public hearing on the proposed amendment, the Planning Commission shall make written findings of fact that shall be transmitted together with the comments made at the public hearing and the Commission's recommendation to the Livingston County Planning Department and the Brighton Township Board.

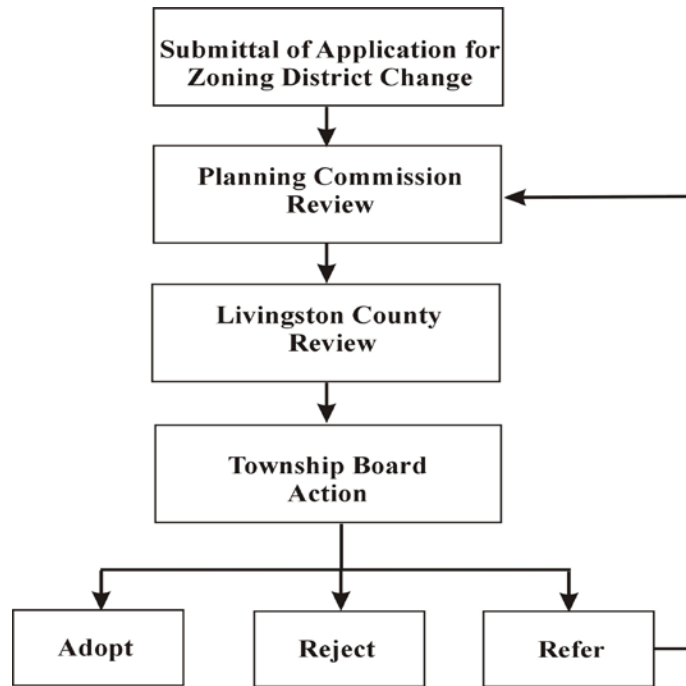
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c. **Action by the Township Board.** Following receipt of the recommendation of the Township Planning Commission and receipt of the minutes of the County Review, Township Board, solely at their discretion, may hold an additional hearing at a meeting of the Township Board. The Township Board may do one of the following by majority vote of its membership:

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1. **Adopt.** Adopt the proposed amendment to the Zoning Map by Ordinance.
2. **Reject.** Deny the proposed amendment.
3. **Refer.** Return the proposed amendment to the Planning Commission with comment for further review and recommendation within a specified time period. Thereafter, the

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Township Board may either adopt the amendment with or without the recommended revisions, or reject it.

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d. **Reconsideration of a Proposed Map Amendment.** An application for a map amendment that has been previously denied by the Township Board shall not be reconsidered by the Township unless there have been substantial changes in the facts, evidence, conditions, and/or error in the case. Determination of whether there have been such changes shall be made by the Planning Commission at the time of re-application.

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(d) **Review Considerations.** The Planning Commission and Township Board shall, at minimum, consider the following before making recommendation on any proposed amendment:

5 (1) Consistency with the goals, policies and future land use map of the Brighton Township Master Plan including any sub area or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.

10 (2) Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses permitted in the proposed zoning district.

15 (3) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

20 (4) The capacity of Township infrastructure, utilities and services is sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township.

25 (5) The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned to accommodate the demand.

(6) If a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another zoning district.

30 The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.

35 (e) **Notice and Record of Amendment.** Following adoption of an amendment by the Township Board, notice shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption, in accordance with Section 401 of the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended.

A record of all amendments shall be maintained by the Township Clerk. The Master Zoning Map identifying all map amendments by consecutive number and date shall be maintained by the Township Clerk.

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(f) Conditional Rezoning.

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Conditional rezonings are a voluntarily offered contract from an applicant to a municipality that offers a tightly packaged project that may not by itself be harmonious with the surrounding properties. For a proposed rezoning, where the applicant is proposing a specific use and a traditional rezoning may open up future uses on a broader scale that may not be harmonious to surrounding property, a conditional rezoning may be proposed. Conditional rezonings allows negotiation between the applicant and the Township. The applicant initially submits a conceptual conditional zoning agreement (CCZA) to the Township and the Township reviews and either accepts or denies the proposal based on the master plan for the Township. The conditions in the CCZA must be voluntary and equally or more restrictive than the regulations that would normally apply under the proposed zoning district. The applicant follows the basic process that regular rezonings follow but includes a CCZA and a conceptual site plan (CSP) as defined in Sec's. (1) and (2) below.

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An applicant requesting a rezoning shall voluntarily offer a CCZA and CSP and application for rezoning prior to the public hearing for a proposed rezoning. The conditions set forth in the CCZA must be voluntary and equally or more restrictive than the regulations that would otherwise apply under the proposed zoning district. The CCZA must be voluntarily offered by the applicant and the Township shall not have the authority to require modification to a CCZA without the consent of the petitioner; provided, the Township shall not enter into a CCZA that is not found acceptable to the Township Board. An election to submit a CCZA shall be pursuant to Section 405 of the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended, and this Article.

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The CCZA shall meet the following requirements:

- a. May include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictions on the location,

size, height, or other measures for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features.

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b. Shall not authorize uses or developments of greater intensity or density, or which are not permitted in the proposed zoning district, but may restrict the use of the property to only certain uses permitted in the proposed zoning district.

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c. Shall not permit variations from height, area, setback, or similar dimensional requirements that are less restrictive than the proposed zoning district, but may require more restrictive dimensional requirements, unless variances have been granted by the Township Board.

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d. Shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The conditional zoning agreement may include conditions related to the use and development of the property that are necessary to:

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1. Serve the property with improvements, including but not limited to, the extension, widening, or realignment of roads; construction, or extension of utilities, or other infrastructure improvements serving the site; or the construction of recreational facilities;

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2. Minimize the impact of the development on surrounding properties and the Township overall; or,

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3. Preserve natural features and open space beyond what is normally required.

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(1) Content of Conditional Conceptual Zoning Agreement (CCZA). In addition to any limitations on use or development of the site, preservation of site features or improvements described above, the CCZA shall also include the following:

a. An acknowledgement that the CCZA was proposed voluntarily by the applicant.

b. A statement that the property shall not be developed or used in any manner that is inconsistent with the CCZA.

5 c. A statement that the approval of the rezoning and the CCZA shall be binding upon and inure to the benefit of the property owner and the Township, and also their respective heirs, successors, assigns, receivers, or transferees. Where the applicant for rezoning is acting on behalf of the landowner through some form of purchase agreement or other mechanism, then the landowner must also consent and sign the agreement.

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d. A statement that the CCZA shall not permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.

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e. Acknowledgement that the CCZA was proposed voluntarily by the applicant and that the Township relied upon the agreement and may not grant the rezoning but for the conditions offered in the CCZA.

20 f. Agreement and understanding that the rezoning is conditioned upon obtaining site plan approval under *Article 18*, or subdivision approval under the Township Subdivision Ordinance and obtaining other necessary approvals required by the Township and all applicable county, and state agencies.

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g. A legal description of the land to which the agreement pertains.

h. The CCZA shall include and incorporate, by reference, a CSP. This CSP shall not replace the requirement for a site plan as outlined in *Article 18*. The CSP requirements are outlined in subsection (2) below.

30

i. Any other provisions as are agreed upon by the parties.

35 (2) **Content of Conceptual Site Plan (CSP).** The following information shall be submitted with any application for conditional rezoning and CSP approval:

(a) **Existing Site Conditions**

(1) An overall area map on a scale of not less than one inch equals two thousand feet (1"= 2000') showing the relationship of the development to its surroundings such as section lines and/or major roads or collector roads.

5

(2) Physical development plan prepared at a minimum scale of one inch equals one hundred feet (1"=100').

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(3) Boundaries of the proposed development, section or corporation lines within or adjacent to the development, and overall property dimensions.

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(4) Property lines of adjacent tracts of subdivided and unsubdivided land in relation to the development, including those of areas across abutting roads.

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(5) Locations, widths and names of existing or prior platted roads, private roads and easements within or adjacent to the development, including those of areas across abutting roads.

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(6) Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the development.

(7) Topography drawn as contours with a two foot contour interval. Topography to be based on USGS data and be extended a minimum distance of two hundred feet (200') outside the development's boundaries.

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(b) Proposed Development Features

(1) Layout of roads including proposed road names, right-of-way widths, and connections with adjoining roads, and also the widths and locations of easements and public walkways.

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(2) Layouts, numbers and dimensions of single family homes, including building setback lines.

(3) Layout of proposed multiple family dwellings, including setbacks, buildings, drives, parking spaces, walkway systems and landscaping.

5 (4) Location and definition of function of both developed and undeveloped space within the development. Layout of facilities to be included.

10 (5) Description of major wooded areas and description of means to preserve them.

(6) An indication of ownership and existing and proposed use of any parcels identified as “excepted”.

15 (7) An indication of the proposed sewage, water supply and drainage system. If county drains are involved, the proposed drainage shall be acceptable to the County Drain Commissioner. Storm drainage must be provided to an approved outlet or retention basin.

20 (8) Conceptual site grading plan and conceptual landscaping site plan, including pedestrian circulation system.

(9) Depiction of proposed development phases.

25 (10) Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

30 (11) Traffic impact study may be required by the Planning Commission when the use generates traffic that exceeds trip generation rates recognized by the Institute of Traffic Engineers (ITE) in accordance with *Section 18-09*.

35 (c) **Tabulations.**

(1) Total site acreage and percent of total project in various uses.

(2) Draft of the CCZA.

(3) Statement of developer's intention in the land proposed for development.

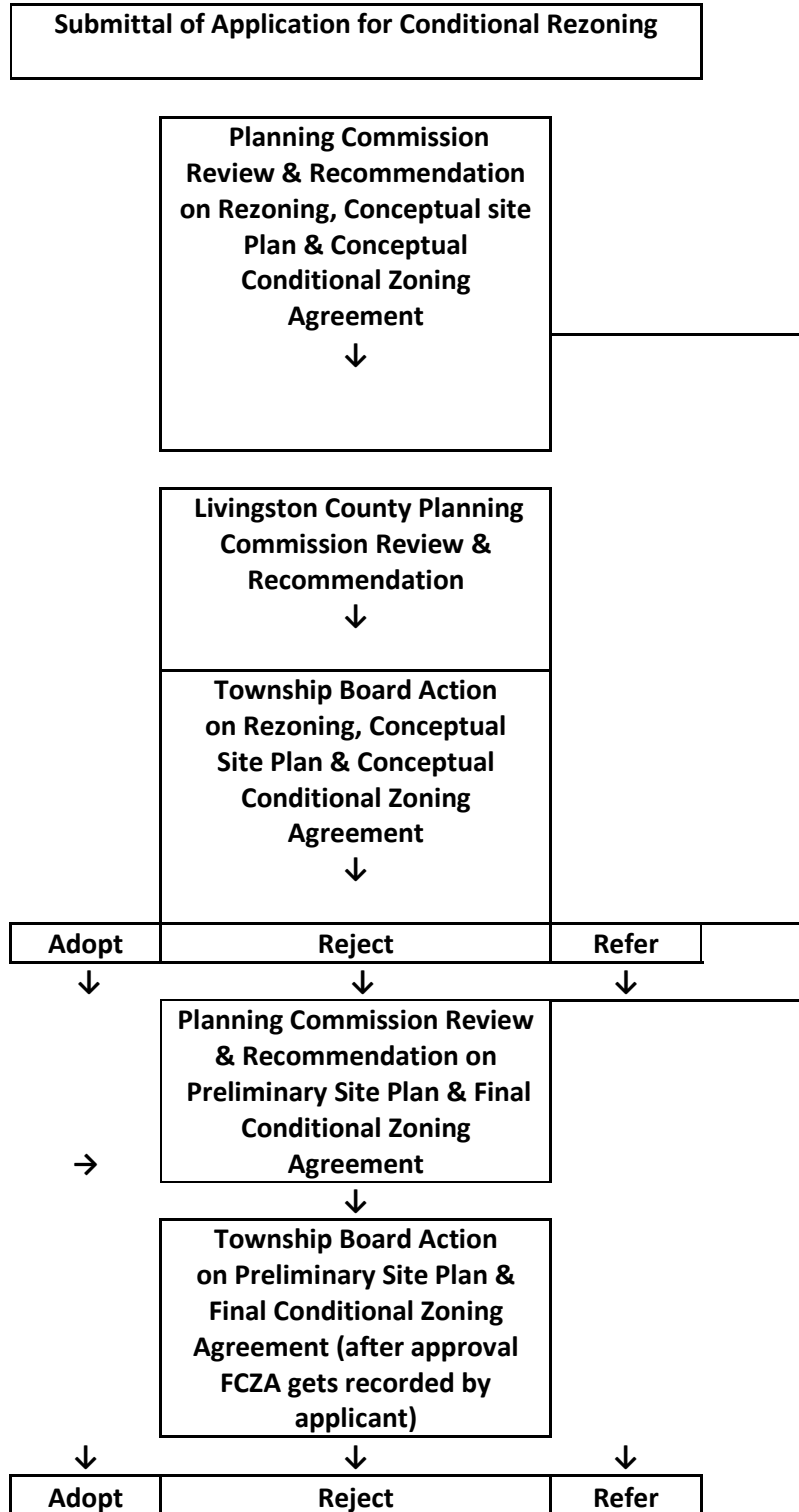
5

(4) Statement regarding the developer's intention regarding sale and/or lease of all or portions of the development, including land area, units and recreational facilities.

10

(5) Statement of requested modifications to the regulations that are otherwise applicable to the site.

(3) **Process.** The CCZA shall be reviewed concurrently with the petition for rezoning following the process in *Section 23-10(c)* and the following:



5 a. The CCZA and CSP must be submitted prior to the Planning Commission public hearing. The CCZA shall be reviewed by the Township Attorney to determine that it conforms to the requirements of this Section and the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended, and shall confirm that the CCZA is in a form acceptable for recording by the Livingston County Register of Deeds.

10 Revisions may be made to the CCZA following the public hearing in response to issues discussed at the public hearing. Any revisions to the CCZA must be reviewed by the Planning Commission prior to the Planning Commission making its recommendation on the rezoning to the Livingston County Planning Commission and the Township Board.

15 b. Following the public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the Livingston County Planning Commission and the Township Board based upon the Criteria listed in *Section 23-10(d)*. In addition, the Planning Commission shall consider whether the proposed CCZA and CSP:

- 20 1. Is consistent with the intent of this Ordinance and is clearly in the public interest;
- 25 2. Is consistent with the recommendations of the Master Plan;
- 30 3. Bears a reasonable and rational connection or benefit to the property being proposed for rezoning;
- 35 4. Is necessary to insure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties; and,
5. Leads to a development that is more compatible with abutting or surrounding uses than would have been likely if the property had been rezoned without a conditional zoning agreement, or if the property were left to develop under the existing zoning classification.

5 c. If a CCZA and CSP has been offered by the applicant and recommended for approval or denial by the Planning Commission and the Livingston County Planning Commission, the Township Board may approve, table, or deny the CCZA and CSP as a condition to the rezoning if it meets all of the requirements of subsection “b” above.

10 If variances from the requirements of the underlying zoning district are necessary, the applicant will apply and, if appropriate, receive variances from the Township Board. Criteria for consideration of variances by the Township Board shall include, but not be limited to:
15 (a) circumstances or conditions applicable to the property or the intended use that do not generally apply to other properties or uses; (b) the variance will not interfere with or discourage the appropriate development, continued use or value of adjacent properties; and (c) the proposed variance does not interfere with the public safety or create nuisances.

20 If the rezoning, CCZA and CSP are approved, the applicant will proceed to the next step.

(4) Final Preliminary Site Plan (PSP).

25 a. The applicant must submit his PSP and FCZA for review and approval by the Planning Commission and Township Board. The applicant will follow the requirements for site plan approval under *Article 18* or subdivision approval under the Township Subdivision Ordinance and obtain any other necessary approvals required by the Township and all applicable county and state agencies for PSP
30 approval. The applicant will submit his PSP and FCZA to the Planning Commission. The Planning Commission will review the PSP and FCZA and make a recommendation for approval or denial to the Township Board. The Township Board may approve, table, or deny the PSP and FCZA.

35 b. Applicant shall sign the approved FCZA and PSP within thirty (30) days of approval by the Township Board or the Township approval becomes null and void. The approved and executed FCZA and PSP

shall be submitted to the Livingston County Register of Deeds for recording by the applicant after approval by the Township Board.

5 c. After approval of the PSP and FCZA, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, and a reference be made to the FCZA and PSP. The FCZA and PSP shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning. The Township Clerk shall maintain a listing of all properties subject to FCZA and shall provide 10 copies of the Agreements upon request. Per State law, the ordinance is effective on the date stated herein.

15 (5) **Expiration**

15 a. The rezoning, PSP and FCZA shall expire two (2) years after adoption of the rezoning, FCZA and PSP, unless substantial construction on the approved project or phase of the project as outlined in the FCZA occurs pursuant to building and other required permits 20 within the two (2) year period or has been extended by the Planning Commission under subsection “d” below.

25 b. The FCZA shall specify that if substantial construction has not commenced within two (2) years after the rezoning, the rezoning, FCZA and PSP shall be void and of no effect.

30 c. Should the rezoning, FCZA and PSP become void, all development on the subject property shall cease, and no further development shall be permitted. The Township shall withhold permits and certificates until action satisfactory to the Township is taken to bring the property into compliance with the FCZA and approved site plan. The Township shall also revoke permits, and certificates, following notice to the applicant and giving the applicant an 35 opportunity to be heard, in addition to or in lieu of any other lawful action to achieve compliance.

Notwithstanding the above, if the property owner applies in writing for an extension of the rezoning, FCZA and PSP at least thirty (30) days prior to the expiration date, the Planning Commission may grant an

extension of up to one (1) year. Further extensions may be granted by the Planning Commission although the number of previous extensions granted shall be considered in relation to the diligent effort of the land owner to satisfy the conditions of the FCZA and PSP.

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(6) **Reversion of Zoning.** If the rezoning, approved site plan, and FCZA become void as outlined above, then the land shall automatically revert back to its original zoning classification as set forth in the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended. The Township Clerk will advise the land owner, of, the reversion of zoning.

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(7) **Continuation.** Provided that all development and use of the property in question is in compliance with the FCZA approved site plan, a use or development authorized may continue indefinitely, provided that all terms of the FCZA continue to be met.

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(8) **Amendment.** The approved PSP and FCZA may be amended by the Township with the landowner's consent. If the amendment is considered a major amendment per *Section 18-07*, then the applicant must proceed forward in the same manner as was prescribed for the original rezoning, FCZA and PSP. If the amendment is considered a minor amendment per *Section 18-07*, it can be handled administratively. The approved amendment shall be submitted to the Livingston County Register of Deeds for recording by the applicant after approval by the Township Board.

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(9) **Violation of Agreement.** Failure to comply with the approved site plan and FCZA at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance and further use of the property may be subject to legal remedies available to the Township.

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(10) **Subsequent Rezoning of Land.** Nothing in the FCZA, nor any statement or other provision, shall prohibit the Township from later rezoning all or any portion of the property that is the subject of the FCZA to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended.

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(11) **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 the owner's rights under this Ordinance.

5 (12) **Township Not Obligated.** The Township is not required or obligated to accept any or all conditions offered by a developer on a rezoning application. In no way is an offer of a conditional zoning agreement the basis for requiring the Township to approve a rezoning application.

10 (Ord. #248, 1/22/10), (Ord. #243, 8/1/08), (Ord. #234, 12/28/06),
(Ord. #231, 12/27/05)

15 **23-11 Public Hearing Notices.** In instances where a public hearing is required under this Ordinance with the Planning Commission or the Zoning Board of Appeals, written notice of the public hearing shall be as follows:

(a) **Notice Content.** The notice shall do all of the following:

20 (1) Describe the nature of the request.

(2) 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 no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(3) State when and where the request will be considered.

30 (4) Indicate when and where written comments will be received concerning the request.

(b) **Notice Publication and Mailing.** Notice shall be published and mailed no less than fifteen (15) days prior to the public hearing as follows:

35 (1) Notice of the request shall be published in a newspaper of general circulation in the Township.

(2) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

(3) Notice shall also be sent to all property within three hundred (300) feet of the subject property and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the Township. 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. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

(4) The notice under subsection (3) 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.

(c) Ordinance Amendments and Rezonings of More Than Ten (10) Properties. Public hearings for an amendment to the Zoning Ordinance, or the Zoning Map that affects more than ten (10) properties shall only require notice in a newspaper, which shall not be required to indicate the property subject to the request under (a)(2) above, and notice shall not be required to be mailed to individual properties under (b)(2) and (b)(3) above.

(d) ZBA Interpretations and Appeals. Public hearings for ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals shall only require notice in a newspaper, as required in (b)(1) above but if the interpretation or appeal of an administrative decision involves a specific property, notice shall also be given to the person bringing the appeal, as required in (b)(2) above.

(Ord. #248, 1/22/10)

23-12 Annual Report. The Planning Commission shall submit a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements at least once a year.

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(Ord. #234, 12/28/06)