

CHAPTER XXIV
ADMINISTRATION AND ENFORCEMENT
(Ord. No 13-79; 10/16/79)
(Ord. No 90-2; 5/21/90)
(Ord. No. 95-6; 07/17/95)
(Ord. No 99-02; 3/22/99)
(Ord. No 03-01; 01/23/03)
(Ord. No. 06-01; 02/26/06)

SECTION 24.01 BUILDING PERMIT REQUIRED.

It shall be unlawful for any person to commence excavation for construction of any building, structure, or parking area, or to make structural changes in any existing building or structure, or to change the use of any premises, without first obtaining a building permit from the Township Building Inspector. No permit shall be issued for the construction, alteration, or remodeling of any building or structure until an application has been submitted showing that the construction proposed is in compliance with the provisions of this Ordinance and with the Building Code, and a site plan is submitted on approval in accord with Section 11.03(h). No plumbing, electrical or drainage permit shall be issued until the Building Inspector has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this Ordinance. (Ord. No. 13-79; 10/16/79)

SECTION 24.02 ADMINISTRATIVE OFFICIALS.

The Township Board shall appoint a Zoning Administrator to administer and enforce the provisions of this Ordinance. The Building Inspector may also serve as the Zoning Administrator. The Zoning Administrator or his or her agent shall also have the authority to receive applications, inspect premises for violations, issue building permits, and institute proceedings for enforcement of this Zoning Ordinance. The Zoning Administrator or his or her designated agent is specifically authorized to issue and serve appearance tickets, based on reasonable cause, on any person, business, or organization in violation of any of the provisions of this Zoning Ordinance and for which a fine, imprisonment, or both may be levied as a result of such violation. (Ord. No. 90-2; 5/21/90)

SECTION 24.03 PERMITS.

Every application for a building permit shall be made as required by the Building Code and shall designate the existing or intended use of the structure or premises, or part thereof which is proposed to be altered,

erected, or extended, and the number of dwelling units, if any, to be occupied. The application shall be accompanied by two ink, blueprint, or photostatic copies of drawings, drawn to scale, showing the actual lines, angles, and dimensions of the lot to be built upon or used, and the size and location on the lot of all existing and proposed structures and uses, together with specifications.

The application shall contain other information with respect to the lot and adjoining property as may be required by the Building Inspector. One copy of both plans and specifications shall be filed in and retained by the Office of the Building Inspector, and the other shall be delivered to the applicant when the Building Inspector has approved the application and issued the permit. In cases of minor alterations, the Building Inspector may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance.

Any permit required by this Zoning Ordinance or the Building Code of this Township shall be displayed face out, within twenty-four (24) hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest highway, and shall be continuously so displayed until all work, or the term for which issued, or purpose for which issued is completed. Failure to obtain and display any such permit shall constitute a violation of the Zoning Ordinance and Building Code and shall subject each person or persons or corporations who performs or authorized the performance of any act for which a building permit is required, and the owner or owners of the premises involved to prosecution for such violation.

SECTION 24.04 OCCUPANCY.

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected, until the Building Inspector shall have made an inspection of the premises and shall have approved the same in writing for occupancy. The Building Inspector shall not issue a certificate of occupancy until he has ascertained that there has been compliance with all of the requirements of this Ordinance and the Building Code and substantially all of the approved plans of the building.

A certificate of occupancy requested prior to the completion of improvements noted on an approved site plan, noted as specific conditions of project approval by the Alpine Township Planning Commission or Township Board, and/or required in accordance with the Construction Code, may only be issued upon the applicant's filing with the Township a performance guarantee in a form satisfactory to the Township. The performance guarantee shall be an irrevocable letter of credit unless the Township approves a performance bond or other type of security.

The performance guarantee must be accompanied by a detailed punch list of the uncompleted improvements along with the corresponding estimated cost of completing the same and a completion deadline. The amount of the performance guarantee must be sufficient to cover all uncompleted improvements as determined by the Township and must include a provision authorizing the Township to utilize the performance guarantee if the applicant has not completed the improvements in accordance with the approved deadlines. The Township will hold the performance guarantee until all improvements have been inspected and approved by the Township or as otherwise provided for in accordance with this section.

(Ord. No. 03-01; 01-23-03)

SECTION 24.05 VIOLATIONS AND PENALTY.

Unless a section of this Ordinance specifically provides otherwise any person, firm, corporation, trust, partnership or other legal entity who violates, or refuses to comply with any provision, or any condition imposed by the Planning Commission or Zoning Board of Appeals in pursuance thereof, of this Ordinance shall be responsible for a municipal civil infraction shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation, two hundred fifty dollars (\$250.00) for a second violation and five hundred dollars (\$500.00), for a third or subsequent violation. Each day a violation occurs or continues shall constitute a separate offense, and shall make the violator liable for the imposition of a fine for each day.

- (a) 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 or who has assisted knowingly in the commission of such violation shall be liable to the fines and costs provided above.
- (b) In addition to a civil fine, a person admitting or determined to be responsible for a municipal civil infraction shall be liable for the payment of the costs of the prosecution in an amount not less than nine dollars (\$9.00) or more than five hundred (\$500.00).
- (c) In addition to the penalties otherwise provided, the district court shall have jurisdiction to enforce any judgement, writ or order necessary to enforce any provision of this Ordinance, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or granting injunctive relief.
- (d) 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 effective date of this Ordinance and in violation of any of its

provisions is declared to be a public nuisance per se, and may be abated by order of a court of competent jurisdiction.

- (e) The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law.

SECTION 24.06

24.06-A CONDITIONAL REZONING (Ord. 06-01; 02/26/06)

The Planning Commission and Township Board recognize that, in certain instances, it would be an advantage to the Township and any property owners seeking rezoning if the application for rezoning was accompanied by a site plan and was subject to certain conditions. Accordingly, it is the intent of this Section of the Zoning Ordinance to provide a conditional rezoning option to property owners in connection with the submission of an application for rezoning. This option is intended to accomplish the objectives of the Zoning Ordinance through a rezoning review process that applies site planning criteria to achieve integration of the development project into the fabric of the project area.

(a) Definitions

The following definitions should apply in the interpretation of this Section:

- (1) **Applicant:** The property owner, or a person with the written and signed authorization of the property owner to make application under this Section.
- (2) **Conditional Rezoning Agreement (CR Agreement):** A written agreement approved and executed by the Township and property owner, incorporating a CR Plan, and setting forth Rezoning Conditions and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a conditional rezoning.
- (3) **Conditional Rezoning Plan (CR Plan):** A plan of the property which is the subject of a conditional rezoning, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture, or other measure or feature of buildings, structures and improvements on, and in some cases adjacent to, the property. The details to be offered for inclusion on a CR Plan shall be determined by the applicant, subject to approval of the Township Board after recommendation by the Planning Commission.
- (4) **Rezoning Conditions:** Conditions proposed by the applicant and approved by the Township as part of an approval under this Section, which shall constitute regulations in connection with the

development and use of property for which conditional approval has been granted. Such Rezoning Conditions shall not:

- a. Authorize uses or developments of greater intensity of density than are permitted in the district proposed by the rezoning.
- b. Authorize uses that are not permitted in the district proposed by the rezoning.
- c. Permit uses or development expressly or implicitly prohibited in the CR Agreement.

(5) **Rezoning:** The act of rezoning land from an existing zoning district/classification to a different zoning district pursuant to MCL 125.271, *et seq.*, as amended. A rezoning constitutes an amendment to the Zoning Map (which is an integral part of the Zoning Ordinance).

(b) **Authorization and Eligibility**

(1) **Application for Optional Conditional Rezoning.** A property owner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. The conditional rezoning option shall be selected by filing an Application for Conditional Rezoning Review, which, if approved, would authorize a specific use for the property. Conditional rezoning represents a legislative amendment to the Zoning Ordinance, pursuant to MCL 125.268i.

(2) **Site-Specific Regulations.** In order to be eligible for review of an application for conditional rezoning, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR Plan and CR Agreement) which are equally more strict or limiting than the regulations that would apply to the land under the proposed zoning district.

(c) **Review and Approval Procedures**

(1) **Pre-Application Meeting.** Prior to submitting an Application for Conditional Rezoning, the applicant shall schedule a pre-application meeting with the Township Supervisor and Township Planner for preliminary review of the proposal and to provide the applicant with an understanding of the review process. The applicant shall pay the expenses incurred by the Township for this meeting.

- (2) **Application.** A property owner may submit an Application for Conditional Rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The application, which may be amended during the review process, shall include a CR Plan proposed by the applicant and a list of Rezoning Conditions proposed by the applicant, recognizing that the Rezoning Conditions shall not authorize uses or development not permitted in the proposed zoning district.
- (3) **Planning Commission Review.** After the completed application and all required supporting materials have been received and fees paid, the petition shall be reviewed by the Planning Commission in accordance with the procedures outlined in Section 24.01 (b) (1) and (2).

 - a. **Public Hearing.** The petition shall be placed on the agenda of the next 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 Section 14 and other applicable sections of Public Act 184 of 1943, as amended.
 - b. **Action by the Planning Commission.** Following the hearing on the proposed amendment, the Planning Commission shall make findings of fact which it shall transmit to the Township Board, together with its comments made at the public hearing and its recommendation.
- (4) **Township Board Consideration.** Upon receipt of the recommendation of the Planning Commission, the Township Board shall deliberate on the proposed conditional rezoning. If the Township Board determines that it may approve the conditional rezoning, then the Township Board shall work with the landowner to identify tentative conditions, and direct the Township Planner to work with the applicant to develop a draft CR Agreement.
- (5) **Township Board Action.** Upon completion of the CR Agreement, the Township Board, by majority vote of its membership, shall make a final determination to approve, approve with conditions, or deny the conditional rezoning.
- (6) **Zoning District Designation.** If approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to “CR, Conditional Rezoning.” For example, in the C-2-Commercial District the Zoning Map designation would be “C-

2/CR.” The use of property so designated shall be restricted to the uses specified in the CR Agreement, and no other development or use shall be permitted.

- (7) **Effects of Approval.** The use of property in question shall conform with all regulations governing development and use in the zoning district to which the property has been rezoned, subject to the following:
- a. **Development Subject to Conditional Rezoning Requirements.** Development and use of the property shall be subject to the more restrictive requirements specified on the CR Plan, in the Rezoning Conditions and in the CR Agreement, required as part of the Conditional Rezoning approval. Such requirements shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
 - b. **Site Plan Review Required.** Approval of the CR Plan and Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR Plan. Site plan, special land use, plat, and condominium approval, as appropriate, shall be required, pursuant to procedures set forth by the Alpine Township Zoning Ordinance, prior to any improvements to the property.
 - c. **Recordation of CR Agreement.** A conditional rezoning shall become effective following publication in the manner provided by law, and after recordation of the CR Agreement, whichever is later.
- (8) **Amendments of CR Agreement.** Amendment of a CR Agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.
- (9) **Expiration of CR Agreement.** The conditional rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning unless: 1) approved development of the property commences within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion, or 2) the rezoning is extended for good cause by the Township Board as provided herein.
- a. **Extension of Approval.** In the event that a bona fide development has not commenced within two (2) years from the effective date of the rezoning, the conditional rezoning and CR Agreement shall be void and of no effect. However,

the land owner may apply to the Township Board for a one (1) year extension one (1) time. The request for extension must be submitted to the Township Clerk before the two (2) year time limit expires. The land owner must show good cause why the extension should be granted.

- b. **Revert to Former Zoning.** If the conditional zoning becomes void and of no effect, then by automatic reverter set forth in MCL 125.286i the land shall revert to its former zoning classification, which shall be confirmed by resolution of the Township Board.
- (10) **Violations of the CR Agreement.** If development or actions are undertaken on or with respect to the property in violation of the CR Agreement, such development or actions shall constitute a nuisance per se. In such case, the Township may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the CR Agreement, the Township may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
- (11) **Fees.** The applicant shall pay as a fee the expenses incurred by the Township in the review of any conditional rezoning application. Additionally, zoning escrow fees or amounts shall be deposited with the Township by the applicant as required by this Ordinance or Township resolution or policy. Any unexpended amounts from such escrow shall be returned to the applicant.

(d) **Elements of a Conditional Rezoning Application**

As an integral part of the conditional rezoning, the following shall be reviewed and may be approved:

- (1) **CR Plan.** A CR Plan, with such details as proposed by the applicant and approved by the Township Board in accordance with this Section. The CR Plan shall not replace the requirements for site plan, subdivision or condominium approval, as the case may be.
- (2) **Rezoning Conditions.** Rezoning conditions shall not authorize uses or development which are not permitted in the proposed zoning district, and shall not permit uses or development which are expressly or implicitly prohibited in the CR Agreement. Rezoning conditions may include some or all of the following:

- a. The location, size, height, and setbacks of buildings, structures, and improvements.
 - b. The maximum density or intensity of development (e.g. units per acre, maximum usable floor area, hours of operation, etc.).
 - c. Measures to preserve natural resources or features.
 - d. Facilities to address storm water drainage and water quality.
 - e. Facilities to address traffic issues, for example, through road paving or other road improvements.
 - f. Open space preservation provisions.
 - g. Minimum landscaping, buffering and screening provisions.
 - h. Added landscaping, above and beyond what is required by the Zoning Ordinance.
 - i. Building design, materials, lighting and sign criteria.
 - j. Permissible and prohibited uses of the property.
 - k. Provisions to preserve historic farms, barns and other buildings to preserve the history of the Township.
 - l. Measures to protect the rural view shed, which is an undeveloped area adjacent to the road right-of-way, having a depth of at least two hundred (200) feet, where existing natural features, such as wetlands, woodlands, hedgerows, undulating landforms, and scenic vistas are preserved and incorporated into the landscape.
 - m. Reclamation and reuse of land, where previous use of land causes severe development difficulties, or has caused blight.
 - n. Drainage improvements, beyond what is required by ordinance, using best management practices (BMP).
 - o. Such other conditions as deemed important to the development by the applicant.
- (3) **CR Agreement.** A CR Agreement, which shall be prepared by the Township Planner and the applicant (or designee) and which shall incorporate the CR Plan and set forth the Rezoning Conditions,

together with any other term mutually agreed upon by the parties, including the following terms.

- a. Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal would not have granted the rezoning but for the terms in the CR Agreement.
- b. Agreement and acknowledgement that the conditions and CR Agreement are authorized by all applicable state and federal laws and constitution, and that the CR Agreement is valid and was entered into only on a voluntary basis, representing a permissible exercise of authority by the Township.
- c. Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR Plan or CR Agreement.
- d. Agreement and understanding that the approval and CR Agreement shall be binding upon and inure to the benefit of the property owner and the Township, and their respective heirs, successors, assigns, and transferees.
- e. Agreement and understanding that, if a conditional zoning becomes void in the manner provided in this Section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
- f. Agreement and understanding that each of the requirements and conditions in the CR Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.

(e) **Approval Criteria**

The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR Plan, Rezoning Conditions, and CR Agreement:

- (1) **Enhance the Project Area.** The Township Board shall determine that the approval of the conditional rezoning shall accomplish the

integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning.

- (2) **In the Public Interest.** The Township Board shall determine that, in considering the site specific land use proposed by the applicant, sufficient conditions have been included in the CR Plan and CR Agreement so that it would be in the public interest to grant the conditional rezoning. In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted, planning, engineering, environmental and other principles.

24-06-B AMENDMENTS.

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

(a) **PROCEDURE -**

- (1) The Planning Commission may propose amendments on its own initiative.
- (2) Any resident or land owner of Alpine Township may bring before the Planning Commission a proposed amendment or change by filing a petition signed by all persons having an interest in such premises to be acted upon, requesting the adoption of any specified amendment or change or regulation under the Zoning Ordinance. If the proposed amendment pertains to rezoning, such application or petition shall be accompanied by a development plan as provided in (c) of this section. The Township Clerk shall file the same with the Secretary of the Planning Commission within ten (10) days of the date the petition was filed with the Clerk.

(b) **CONTENTS OF PETITION -** The petition requesting a proposed amendment or change shall contain the following:

- (1) The legal description of the premises involved.
- (2) The zone in which such premises are presently situated.

- (3) The zone into which petitioner desires such premises to be situated.
 - (4) The use to be made of such premises if rezoned.
 - (5) The signatures of all persons having an interest in such premises.
- (c) CONTENTS OF DEVELOPMENT PLAN - If the proposed amendment pertains to rezoning, the petition shall be accompanied by a development plan which shall include the following and be drawn to a scale of one (1) inch equaling one hundred (100) feet.
- (1) A topographic map showing contour lines at five (5) foot intervals of a scale of one (1) inch equals one hundred (100) feet.
 - (2) A plot plan showing the location of all proposed buildings and drawings showing the elevations and architectural style thereof.
 - (3) All non-enclosed uses.
 - (4) All drainage and sewage facilities.
 - (5) All parking areas and number of vehicles proposed to be facilitated thereby and nature of surface to be used.
 - (6) All loading and traffic handling facilities.
 - (7) All screening and other landscaping and existing fences, barrier, and landscaping including but not limited to trees and shrubs.
 - (8) All pedestrian walkways.
 - (9) Location, type, and size of all signs.
 - (10) Location of all streets adjacent thereto or within three hundred (300) feet thereof.
 - (11) Location and nature of all adjacent uses and structures within three hundred (300) feet of the property requested to be rezoned and zoning of all such area.

- (12) Proposed flow of all vehicular traffic and location and number of all exits and entrances for said vehicular traffic.
- (d) FEES - The required fee for rezoning premises are a part of the cost of any building permit and are in addition to other building permit fees.

If a petition is filed for the purpose of rezoning any property, a fee of two hundred (\$200.00) dollars shall accompany said petition or if rezoning is considered by any other method initiated by the property owner(s), a like fee shall be paid by the petitioner having an interest in the premises which is subject to such proposed rezoning.

Said fee shall be paid to the Township Clerk before any action shall be taken on said petition. Said amount so received shall be retained whether the requested relief is granted or not and shall be used as provided by law. Fees may be changed by the Township Board at any regular meeting, which change shall be effective thirty (30) days from the date of publication of such change.

- (e) POWER OF REVOCATION - The Township Board shall have the power to revoke or cancel any change of zone effected for any failure or neglect to comply with any provisions of this Ordinance, or in case any false statement or misrepresentation is made in any petition, application, specification, plan, or sketch submitted or filed pertaining to rezoning proceedings, or for failure to carry out any provision of such application, petition, specification, plan, or sketch or conditions or provisions on which such rezoning of property was granted.
- (f) ACTION ON PETITION BY PLANNING COMMISSION - Said petition shall be considered by the Planning Commission at its next meeting following the receipt thereof by its Secretary, provided, however, that there is adequate and sufficient time for giving any public notices required by law. The Planning Commission may recommend to the Township Board, modification, rejection, or the adoption of said proposal either in its original or changed form.
- (g) DUTIES OF PLANNING COMMISSION AND TOWNSHIP BOARD
 - (1) Before submitting its recommendations of a tentative zoning plan to the Township, the Planning Commission shall hold at least one public hearing, as provided by law.

- (2) Following such hearing, the Township Planning Commission shall submit the proposed amendment or supplement to the County Planning Commission of the County of which the Township is a part for its approval. The County Planning Commission shall approve or disapprove the plans as provided by law.

SECTION 24.07 FEES AND ESCROW CHARGES

For each zoning review conducted or permit issued, fees and escrow charges shall be paid to the Township Clerk. All fees shall be paid in accordance with the fee schedule established by resolution of the Township Board.

The Township Board shall by resolution, establish fees for the administration of the Ordinance, including all proceedings and matters that may arise hereunder. A list of current fees shall be available for review by the public during Township office hours at the Township Hall. Such fees may be changed from time to time by resolution of the Township Board. The applicant shall pay all applicable fees upon the filing of any application, any proposed site plan, or any other request or application under this Ordinance. In addition to regularly established fees, the Township Board may also require an applicant to submit to the Township (prior to Township review of an application, proposed site plan, or other request) an amount of money determined by the Township to be a reasonable estimate of fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except when authorized under appropriate provisions of the Freedom of Information Act), but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the Township's reasonable costs and expenses, may include, but shall not be limited to, Township engineering fees, Township attorney fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the Township pursuant to an escrow shall be refunded. (Ordinance 99-2, effective March 22, 1999.)