

ORDINANCE NO. 31.168

AN ORDINANCE OF THE CHARTER TOWNSHIP OF LANSING, INGHAM COUNTY, MICHIGAN, PROVIDING THAT THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF LANSING, MICHIGAN, BE AMENDED BY AMENDING SECTION 89-1 ("TEXT OF THIS TITLE AND BOUNDARIES OF ZONING DISTRICTS MAY BE AMENDED") TO REFERENCE THE MICHIGAN ZONING ENABLING ACT (ACT 110 OF THE PUBLIC ACTS OF 2006); AMENDING SECTION 89-3 ("PROCEDURE") TO CONFORM THAT SECTION TO THE MICHIGAN ZONING ENABLING ACT; ADDING SECTION 89-4 ("CONDITIONAL REZONING") TO CHAPTER 89 ("AMENDMENTS") OF TITLE VIII ("ZONING") TO: AUTHORIZE THE REZONING OF PROPERTY WITHIN THE TOWNSHIP WITH REZONING CONDITIONS; ESTABLISH A PROCEDURE FOR AN APPLICANT TO APPLY FOR A REZONING WITH REZONING CONDITIONS; AUTHORIZE THE ENFORCEMENT OF THIS ORDINANCE, CONDITIONAL REZONING PLANS AND CONDITIONAL REZONING AGREEMENTS; REPEAL ORDINANCES AND PORTIONS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND PROVIDE AN EFFECTIVE DATE THEREOF.

THE TOWNSHIP BOARD OF TRUSTEES FOR THE CHARTER TOWNSHIP OF LANSING HEREBY ORDAINS:

1. The Charter Township of Lansing Code of Ordinances is hereby amended by amending Section 89-1 ("Text of this title and boundaries of zoning districts may be amended") to Chapter 89 ("Amendments") to Title VIII ("Zoning") as follows:

Section 89-1. - Text of this title and boundaries of zoning districts may be amended.

The regulations and provisions stated in the text of this title and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by ordinance of the township board in accordance with Act 110 of the Public Acts of 2006, as may be amended.

2. The Charter Township of Lansing Code of Ordinances is hereby amended by amending Section 89-3 ("Procedure") to Chapter 89 ("Amendments") to Title VIII ("Zoning") as follows:

Section 89-3. - Procedure.

- (1) Each petition by one or more persons for an amendment shall be submitted in application to the township board through the Zoning Administrator on a standard form provided, and shall be accompanied by a fee established in a schedule of fees adopted by the township board to cover administrative and publication costs. No part of such fee shall be returnable to a petitioner.
- (2) The township board shall refer proposed amendments to the planning commission for recommended action.
- (3) The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development, as well as conformance with the Master Plan of the Charter Township of Lansing. The planning commission may recommend any additions or modifications to the original amendment proposal.

- (4) Public hearing. The planning commission shall conduct a public hearing on any request for an amendment to the Zoning Ordinance or zoning district map and shall provide notice to as follows:

Notice provisions:

- Publish notice of the hearing one time in a newspaper of general circulation not less than 15 days before the date of the hearing
 - Notice of a hearing must be given to the following persons: (1) owners of property that is the subject of the request; (2) all persons to whom real property is assessed within 300 feet of the property that is the subject of the request; and (3) occupants of all structures within the 300 feet of the subject property
 - This notice does not need to be given to more than 1 occupant of a structure, but if the structure contains more than 1 dwelling unit or distinct spatial areas owned or leased by different persons, 1 occupant of each unit or spatial area must be given notice. If a single structure contains more than 4 units, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance.
 - Notice is considered given when it is either personally delivered or when it is deposited with the US Post Office or other delivery service during normal business hours not less than 15 days before the request is being considered.
 - A hearing granted by the Township Board to an interested property owner regarding a zoning ordinance or zoning amendment is not subject to all of the notice requirements in the Zoning Enabling Act (ZEA), but notice must be given to the interested property owner as provided by the ZEA.
 - The notice must describe the nature of the request, state when and where the request will be considered, indicate when and where comments will be received concerning the request, indicate the property that is the subject of the request, and, for a request involving ten (10) or fewer adjacent properties, the notice shall include a listing of all existing street addresses within the property thereon.
- (5) The planning commission shall then transmit its recommendation and a summary of comments received at the public hearing to the township board. If the township board shall deem any amendments, changes, additions, or departures advisable as to the proposed text or district boundaries, it may refer the same to the planning commission for a report thereon within a time specified by the township board.

The township board shall grant a hearing on the proposed amendment to any property owner who, in compliance with Act 110 of the Public Acts of 2006, has filed a written request to be so heard and may request the planning commission to attend such hearing. Thereafter, the township board may adopt the amendment with or without changes in accordance with the provisions and procedures of Act 110 of the Public Acts of 2006.

- (7) No application for a rezoning which has been denied by the township board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the township board to be valid.

3. The Charter Township of Lansing Code of Ordinances is hereby amended by adding Section 89-4 (“Conditional Rezoning”) to Chapter 89 (“Amendments”) to Title VIII (“Zoning”) as follows:

Section 89-4. Conditional Rezoning.

Section 89-4.1. Intent.

The township board recognizes that, in certain instances, it would be an advantage to both the township and property owners seeking rezoning if a site plan, along with conditions and limitations that may be relied upon by the township, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this chapter to provide an option to property owners in connection with the submission of petitions seeking the amendment of this Ordinance for approval of a rezoning with conditions, per Public Act 110 of 2006, as amended.

Section 89-4.2. Definitions.

The following definitions shall apply in the interpretation of this chapter:

1. Applicant shall mean the property owner(s), or a person acting with the written and signed authorization of the property owner(s) to make application under this chapter.
2. Rezoning conditions shall mean conditions proposed by the applicant and approved by the township as part of an approval under this chapter, including review and recommendation by the planning commission, which shall constitute regulations for and in connection with the development and use of property approved with a rezoning condition in conjunction with a rezoning. Such rezoning conditions shall not authorize uses or developments of greater intensity or density and which are not permitted in the zoning district proposed by the rezoning and shall not permit uses or development expressly or implicitly prohibited in the Conditional Rezoning (CR) agreement, and may include some or all of the following:
 - a. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features shown on the CR plan.
 - b. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation and the like.
 - c. Preservation of natural resources and/or features.
 - d. Facilities to address drainage/water quality.
 - e. Facilities to address traffic issues.
 - f. Preservation of open space.
 - g. A written understanding for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space and/or other features or improvements; and, provision for authorization and finance of maintenance by or on behalf of the township in the event the applicant fails to timely perform after notice.

- h. Signage, lighting, landscaping, and/or building materials for the exterior of some or all structures.
 - i. Permissible uses of the property.
 - j. Protection of township land from annexation.
 - k. Preservation of historic farms, barns and other buildings to preserve the history of the Township.
 - l. Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.
 - m. Paving, making substantial improvements to, or funding of improvements to major township roads which will provide benefits to the township or community at large.
 - n. Construction and/or donation of community buildings where the need has been identified and defined by the township.
 - o. Preservation of a rural view shed which is an undeveloped area adjacent to the road right-of-way, having a depth of at least 200 feet, where existing natural features, such as wetlands, woodlands, hedgerows, undulating landforms, and scenic vistas, are preserved and incorporated into the landscape.
 - p. Provide usable and contiguous open space amounting to at least 40 percent of the site, using the concept of clustering.
 - q. Added landscaping, above and beyond what is otherwise required by township ordinance.
 - r. Reclamation and re-use of land, where previous use of land causes severe development difficulties, or has caused blight.
 - s. Installation of streetscape on an arterial road, beyond what is otherwise required by ordinance, and where compatible with township guidelines concerning trees, streetlights and landscaping.
 - t. Drain and drainage improvements, beyond what is otherwise required by ordinance, using best management practices.
 - u. Providing monuments or other landmarks to identify township boundaries.
 - v. Providing or funding improvements to, and/or facilities for, public safety
 - w. Such other conditions as deemed important to the development by the applicant.
3. CR agreement shall mean a written agreement approved and executed by the township and applicant, incorporating a CR plan, and setting forth rezoning conditions, conditions imposed pursuant to Public Act 110 of 2006, as amended, and any other terms mutually agreed upon by the parties relative to land for which the township has approved a rezoning with rezoning conditions. A CR agreement shall specify at least all of the following, as well as other necessary and proper matters as determined by the township and the applicant
- a. Agreement and acknowledgment that the rezoning with rezoning conditions was proposed by the applicant to induce the township to grant the rezoning, and that the township relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the CR agreement; and, further, agreement and acknowledgment that the conditions and CR agreement are authorized by all

applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the township.

- b. Agreement and understanding that the subject property shall not be developed or used in a manner inconsistent with the CR plan and CR agreement.
 - c. Agreement and understanding that the approval, CR plan and CR agreement shall be binding upon and inure to the benefit of the applicant and township, and their respective heirs, successors, assigns and transferees.
 - d. Agreement and understanding that, if a rezoning with rezoning conditions becomes void in the manner provided in this chapter, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
 - e. 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 rezoning with rezoning conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
 - f. The CR agreement shall contain the notarized signatures of all the owners of the subject property preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the CR agreement.
 - g. Other information as deemed necessary by the Township to define the CR agreement.
4. CR plan shall mean a plan of the property which is the subject of a rezoning with rezoning conditions, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the CR plan shall be determined by the applicant, subject to approval of the township board after recommendation by the planning commission.

Section 89-4.3. Application and offer of conditions.

- A. Application for optional conditional rezoning. An applicant shall have the option of making an election under this chapter in conjunction with a submission of a petition seeking a rezoning. Such election may be made at the time of the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application conforming with this chapter for approval of a conditional rezoning that would establish site-specific use authorization if the petition for rezoning is granted. Such election shall be to seek a rezoning with rezoning conditions pursuant to Public Act 110 of 2006, as amended, which would represent a legislative amendment of the Zoning Ordinance.
- B. Site specific regulations. In order to be eligible for the proposal and review of a rezoning with rezoning conditions, an applicant 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 in a CR agreement to be prepared) which are,

in material respects, equally or more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, such as set forth in subsections 2.a through 2.w of the definition of the "rezoning conditions," above.

- C. The applicant's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- D. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Code may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Code.
- E. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Code may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this Code.
- F. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Code may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Code.
- G. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are voluntarily offered by the applicant in writing, signed, dated and notarized and made part of the record of proceeding. An applicant may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board of Trustees provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- H. The applicant shall describe how the proposed use of the subject property conforms to the comprehensive plan and zoning district involved.

Section 89-4.4. Approval of rezoning with rezoning conditions.

Pursuant to Public Act 110 of 2006, as amended, the township board, following public hearing and recommendation by the planning commission, may approve a petition for a rezoning with rezoning conditions requested by an applicant.

- A. Required information. 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 detail and inclusions proposed by the applicant and approved by the township board in accordance with this chapter, following recommendation by the planning commission. The CR plan shall not replace the requirement for site plan review and approval, or subdivision or condominium approval, as the case may be.
 - 2. Statement of rezoning conditions. Rezoning conditions, as defined for purposes of this chapter, which shall be required by the township board following recommendation by the planning commission. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning and shall not permit uses or development expressly or implicitly prohibited in the CR agreement.

3. CR agreement. A CR agreement, which shall be prepared by the township attorney and the applicant (or designee) and approved by the township board, and which shall incorporate the CR plan and set forth the rezoning conditions, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of CR agreement, above).
- B. Zoning map designation. If approved, the zoning district 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". The zoning map shall specify the new zoning district plus a reference to "CR" (for example, the district classification for the property might be C-1 low density multiple-family with CR, conditional zoning, with a zoning map designation of C-1/CR) and use of the property so classified and approved shall be restricted to the permission granted in the CR agreement, and no other development or use shall be permitted.
- C. Use of property. The use of the property in question shall, subject to subsection C.1 below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:
 1. Development subject to conditional rezoning requirements. Development and use of the property shall be subject to the more restrictive requirements shown or specified on the CR plan, and/or in the other conditions and provisions set forth in the CR agreement, required as part of the conditional rezoning approval, and such CR plan and conditions and CR agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
- D. Review and 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. Enhancement of the project area. Approval of the application shall accomplish, among other things, and as determined in the discretion of the township board, the integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the requested zoning change, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a conditional rezoning.
 2. In the public interest. Sufficient conditions shall be included on and in the CR plan and CR agreement on the basis of which the township board concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with rezoning conditions; provided, in determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be 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, as presented to the township board, following recommendation by the planning commission, and also taking into consideration the special knowledge and understanding of the township by the township board and planning commission.
- E. Expiration. Unless extended by the township board for good cause, the rezoning with rezoning conditions shall expire following a period of two years from the effective date of

the rezoning unless construction on the development of the property pursuant to the required permits issued by the township commences within such two-year period and proceeds diligently and in good faith as required by ordinance to completion.

1. Extension of approval. In the event the development has not commenced, as defined above, within two years from the effective date of the rezoning, the conditional rezoning, and the CR agreement shall be void and of no effect. The applicant may apply to the township board for a one-year extension one time. The request must be submitted to the township clerk before the two-year time limit expires. The applicant must show good cause as to why the extension should be granted.
2. Township action upon expiration. If the rezoning with rezoning conditions becomes void, then the township board shall rezone the property back to the zoning classification applicable at the time the application for conditional rezoning was filed with the township, in accordance with the applicable Zoning Ordinance procedures. Until such a time as the property has been rezoned, no development shall be undertaken or permits for development issued.

Section 89-4.5. Procedure for application, review and approval.

- A. Pre-application meeting. Prior to the time of making application for a conditional rezoning, the applicant shall schedule a pre-application submission meeting with the zoning administrator and one or more of the following township representatives: the township supervisor, the township planner, the township engineer, the township building official, the township attorney, or their designees. The meeting shall involve a preliminary review of the application for conditional rezoning and so that the applicant has a thorough understanding of the process. The applicant shall pay the township's costs and expenses incurred for this meeting.
- B. Offer of conditions. At the time of making application for amendment of this Ordinance seeking a rezoning of property, or at a later time during the process of township consideration of such rezoning an applicant may submit an application for approval of a conditional rezoning to apply in conjunction with the rezoning.
- C. Application. The application, which may be amended during the process, shall include a CR plan proposed by the applicant and shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
- D. Notice of public hearing. The proposed rezoning with rezoning conditions, together, shall be noticed for public hearing before the planning commission as a proposed legislative amendment to the Zoning Ordinance.
- E. Planning commission recommendation. Following the public hearing and further deliberations as deemed appropriate by the planning commission, the planning commission shall make a recommendation to the township board on the proposed rezoning with rezoning conditions.
- F. Township board action. Upon receipt of the recommendation of the planning commission, the township board shall commence deliberations on the proposed rezoning with rezoning conditions. If the township board determines that it may approve the rezoning with rezoning conditions, the township board shall specify tentative conditions and direct the township attorney to work with the applicant in the development of a proposed CR agreement.

Section 89-4.6. Effect of approval.

Approval of the CR plan and agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR agreement and after recordation as otherwise set forth this Section 89-4. Site plan approval shall be required before any improvements to the property may be undertaken.

Section 89-4.7. Amendment of CR agreement.

Amendment of a CR agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with rezoning conditions.

Section 89-4.8. Recordation of CR agreement.

A rezoning with rezoning conditions shall become effective following publication in the manner provided by law, and, after recordation of the CR agreement with the Ingham County Register of Deeds, whichever is later.

Section 89-4.9. Enforcement.

The zoning administrator, township planner, code enforcement officer and other township staff may investigate sites and developments for compliance with an approved CR agreement and/or CR plan. Enforcement actions for noncompliance with, breach or violation of a CR agreement and/or CR plan may include, but not be limited to, the remedies described below:

- A. Rescission. Noncompliance with, breach, or violation of a CR agreement and/or CR plan shall constitute grounds for the township board to rescind a rezoning with rezoning conditions.
- B. Violation of the CR agreement. If development and/or actions are undertaken on or with respect to the property in violation of the CR agreement, such development and/or actions shall constitute a nuisance per se. In such cases, 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.

Section 89-4.10. Fee and Escrow Account.

The applicant for a rezoning with rezoning conditions shall pay an application fee as established by township board resolution, which fee shall be in the amount sufficient to defray the township's costs and expenses expected to be incurred by the township in the review and preparation of documents, as well as all other procedures required by this chapter for a rezoning with rezoning conditions.

An escrow account shall be established in an amount specified by township board resolution, and additional reasonable amounts shall be contributed by the applicant as required in order to

complete the process of review and approval. Funds shall not be withdrawn from the escrow account without the approval of the township board or a designee thereof,

The escrow account shall be maintained in an amount sufficient to restore the property to its former zoning classification, as established by township board resolution, until the rezoning conditions are fully implemented. If the conditions are not fully implemented, the escrow account will be used to cover the township's costs to rezone the property back to its former zoning classification.

Once the rezoning conditions have been fully implemented, or the property is restored to its former zoning classifications due to the rezoning conditions not being fully implemented, any unexpended amounts in the escrow account shall be returned to the applicant.

4. Severability. If a court of competent jurisdiction declares any provision of this Ordinance, or a statutory or regulatory provision referred to or adopted by reference herein, to be unenforceable, in whole or in part, such declaration shall only affect the provision held to be unenforceable and shall not affect any other part or provision of this Ordinance. Provided, however, that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the Township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the Township to impose.

5. Repeal. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed; provided that any violation charged before the effective date of this Ordinance under an ordinance provision repealed by this Ordinance shall continue under the ordinance provision then in effect.

6. Effective Date. This Ordinance shall take effect seven (7) days following its adoption and publication, unless otherwise provided by law.

Kathleen M. Rodgers, Supervisor
Charter Township of Lansing

I, Susan L. Aten, Clerk of the Charter Township of Lansing, hereby certify that the foregoing is a true copy of the original of Ordinance No. _____, enacted by the Charter Township of Lansing Board of Trustees at a regular meeting on _____, 2015.

Susan L. Aten, Clerk
Charter Township of Lansing