

Oakland Charter Township

Ordinance No. ____

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF OAKLAND ZONING ORDINANCE, NO. 16; TO AMEND THE TITLE AND PREAMBLE; TO AMEND SECTION 16.15.01; TO AMEND SECTION 23.01.00; TO AMEND SECTION 23.03.00; TO AMEND SECTION 23.05.10; TO AMEND SECTION 24.04.05; TO AMEND SECTION 25.01.00; TO AMEND SECTION 25.05.00; TO AMEND SECTION 27.01.00; TO AMEND SECTION 27.04.03; TO AMEND SECTION 27.04.04.A; TO AMEND SECTION 27.04.04.B; TO AMEND SECTION 27.04.04.C.1; TO AMEND SECTION 27.04.04.D.1; TO AMEND SECTION 27.04.04.D.1.a.iii; TO AMEND SECTION 27.04.04.E.3; TO AMEND SECTION 27.04.04.E.5; AND TO AMEND SECTION 32.00.00.

THE CHARTER TOWNSHIP OF OAKLAND, MICHIGAN, ORDAINS:

Section 1. Amendment of the Title and Preamble. The Title and Preamble are amended to read as follows:

TOWNSHIP OF OAKLAND

COUNTY OF OAKLAND, STATE OF MICHIGAN

ZONING ORDINANCE

ORDINANCE NUMBER 16

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWNSHIO OF OAKLAND, PROVIDING FOR THE ADMINISTRATIION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE ~~TOWNSHIP RURAL ZONING ACT, ACT 184, OF THE PUBLIC ACTS OF 1943,~~ MICHIGAN ZONING ENABLING ACT, ACT 110 OF 2006, AS AMENDED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH AND TO PROVIDE PENALTIES FOR VIOLATIONS HEREOF.

Whereas ~~Act 194, P.A. 1943,~~ Act 110 of 2006, as amended, empowers the Township to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

Whereas the Township Board of Oakland Township deems it necessary for the purpose of promoting the health, safety, morals, or general welfare of the Township of Oakland to enact such an ordinance, and

Whereas the Township Board, pursuant to the provisions of ~~Act 168, P.A. 1959~~ Act 33 of 2008, as amended, has appointed a

Planning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein, and

Whereas the Planning Commission has prepared a Comprehensive Development Regulation Plan and officially adopted as an element thereof the "Master Land Use Plan" in August 1974 to guide the future development of the Township, and

Whereas the Planning Commission has divided the Township, hereinafter also referred to as "municipality", into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water sewerage, schools, parks, and other public requirements, and

Whereas the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of the improvements thereto and encouraging the most appropriate use of land throughout the municipality, and

Whereas the Planning Commission has submitted its report to the Township Board, and

Whereas the Township Board and the Planning Commission have given due public notice of hearings relating to zoning districts, regulations, and restrictions, and have held such public hearings, and

Whereas all requirements of ~~Act 184, P.A. 1943~~ Act 110 of 2006, as amended and ~~Act 168, P.A. 1959~~ Act 33 of 2008, as amended, with regard to the preparation of this ordinance and subsequent action of the Township Board, have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP OF OAKLAND, MICHICHIGAN AS FOLLOWS:

Section 2. Amendment of Section 16.15.01 Section 16.15.00.01 is amended to read as follows:

.01. This section is intended to authorize the grant of relief from the strict terms of the ordinance in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state or federal law, e.g., *The Federal Fair Housing Amendments Act of 1988*, requires the Township to make "reasonable accommodation" for a particular proposed user of property, the Township Board, following public hearing before and recommendation of the Township supervisor, under the authority of ~~MCL 125.286e~~ **MCL 125.3502**, may administratively approve a special accommodation use, subject to and in accordance with this section.

Section 3. Amendment of Section 23.01.00. The last paragraph of Section 23.01.00 is amended to read as follows:

23.01.00. PURPOSE AND INTENT

The provisions of this Section provide enabling authority and standards pursuant to the **Michigan Zoning Enabling Act** ~~MCL 125.271~~ and ~~125.286e~~ **MCL 125.3503**, for the submission, review and approval of applications for preservation-based planned developments. It is the intent of this Section to create a zoning authorization to achieve the specific land management objectives set forth herein, and to authorize the application of planned unit development regulations for the purposes of: encouraging the use of land in accordance with its character and adaptability; conserving natural resources and natural features and energy; encouraging innovation in land use planning; providing enhanced housing and recreational opportunities for the people of this Township; and bringing about a greater compatibility of design and use between and among neighboring properties.

Section 4. Amendment of Section 23.03.00. The last paragraph of Section 23.03.00 is amended to read as follows:

23.03.00. DEFINITION OF OTHER TERMS USED IN THIS SECTION

Sanitary sewage disposal shall mean the disposition of sanitary sewage generated at a premises by means of a public sanitary sewer, a private, on-site septic tank and tile field serving a single property and use, or, a private septic tank with a separate tile field located in a common area with other separate tile fields. For purposes of this Ordinance provision only, enacted under the authority of ~~MCL 125.286e~~ **MCL 125.3503**, sanitary sewage disposal shall also include a community septic system, which shall involve the use of two or more septic tanks (but not more than the number approved by the Township Engineer and the Health Division of the Oakland County Department of Human Services), from which effluent flows by gravity to a common area that serves as a field for the two or more septic tanks.

Section 5. Amendment of Section 23.05.00, 10. Section 23.05.00, 10 is amended to read as follows:

10. In the event an applicant proposes a development contemplated in ~~MCL 125.286(h)~~, **MCL 125.3506** that includes 50% or more open space, the provisions of the immediately preceding paragraph 9 shall not apply. For purposes of this paragraph, "open space" shall be defined as provided in this Section, and, in addition, subject to the limitations specified in subparagraph 05.2, above, and, 12.1, below, may include natural resources and features, scenic and wooded conditions, agricultural areas, recreational trails, picnic areas, children's play areas, greenways and linear parks; however, "open space" shall not include a golf course.

Section 6. Amendment of Section 24.04.05 Section 24.04.05 is amended to read as follows:

.05. Hearings

The Township Board shall investigate the circumstances of each such case and give **not less than** ~~at least five days but not more than~~ 15 days notice of the time and place of any hearing, meeting or review which may be

held relative thereto as required by State Law. A public hearing regarding requests for special land use approval shall be held by the Planning Commission and by the Township Board.

Section 7. Amendment of Section 25.01.00 Section 25.01.00 is amended to read as follows:

25.01.00. ESTABLISHMENT AND PROCEDURES

Amended 3-17-77, 1-19-86

- .01. A Board of Appeals is hereby established, which shall be constituted, perform the duties, and exercise the powers provided for by ~~Act 184 of P.A. 1943~~ **Act 110 of 2006**, as amended, and this ordinance. Members of the Board of Appeals may be removed ~~from office~~ by the legislative body for ~~cause~~ **misfeasance, malfeasance, or nonfeasance in office** upon written charges and after public hearing.
- .02. The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the board may determine, **and shall be held in accordance with the Open Meetings Act.** The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- .03. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Clerk.
- .04. The Board of Appeals shall fix a reasonable time for a hearing, not to exceed forty-five (45) days from the filing of a Notice of Appeal or Application and give due written notice of the hearing, directed to all owners of **real property and occupants of all structures** located within three hundred (300) feet of the parcel of land subject to appeal **not less than 15 days before the date the request will be considered.** Such notice shall indicate: (1) the nature of the appeal or application; (2) the relief sought; ~~and~~ (3)

description and/or address of property; and shall be given by regular mail addressed to the owner of record as reflected by the tax roll; (4) state when and where the request will be considered; (5) indicate when and where written comments will be received concerning the request. At the hearing any party may appeal in person or by agent or attorney. Determination shall be made at said public hearing. Upon written consent and waiver by all affected property owners within a minimum of three hundred (300) feet, the Board may make a determination in advance of the next regular meeting. (I haven't ever seen this before)

- .05. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official or body, or to decide in favor of the applicant on any matter upon which ~~it is required to pass under this ordinance, or to effect any variation in the application of this ordinance~~ the Board of Appeals is required to pass under the Zoning Ordinance, or to grant a variance in the Zoning Ordinance.
- .06. No order of the Board of Appeals permitting any variance shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Section 8. Amendment of Section 25.05.00 Section 25.05.00 is amended to read as follows:

25.05.00. APPEALS FROM THE BOARD OF APPEALS

Amended 4-7-84

Any person or persons, or any taxpayer, department, board, or bureau of the municipality aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, in the manner provided by the laws of the state and particularly by ~~Act 184, P.A. 1943~~ Act 110 of 2006, as amended.

Section 9. Amendment of Section 27.01.00 Section 27.01.00 is amended to read as follows:

27.01.00. CONTROLLING LAW
Amended 3-17-77

The Township Board may upon recommendation from the Township Planning Commission, amend, supplement, modify or change this ordinance pursuant to ~~Act 184, P.A. 1943~~ **Act 110 of 2006**, as amended.

Section 10. Amendment of Section 27.04.03. Section 27.04.03 is amended to read as follows:

.03. The Township Board may, upon recommendation from the Township Planning Commission, or on its own motion, amend, supplement, modify or change this ordinance pursuant to ~~Act 184 of the P.A. of 1943~~ **Act 110 of 2006**, as amended.

Section 11. Amendment of Section 27.04.04.A. Section 27.04.04.A is amended to read as follows:

.04. Planned Residential Rezoning Overlay (PRRO)
Amended 12/9/03

A. Intent

The Planning Commission and Township Board have recognized that, in certain instances involving a Rezoning for residential use, it would be an advantage to both the Township and to 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 Section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this Ordinance for approval of a Rezoning with Planned Residential Rezoning Overlay that would establish a site specific residential use authorization under ~~MCL 125.286e~~ **MCL 125.3503**, so as to accomplish, among other things, the objectives of the zoning ordinance through a land development project review process based upon the application of site planning criteria to achieve integration of the proposed land development

project with the characteristics of the project area.

Section 12. Amendment of Section 27.04.04.B. Section 27.04.04.B is amended to read as follows:

B. Definitions

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

Applicant shall mean the property owner, or a person acting with the written and signed authorization of the property owner to make application under this Section.

Planned Residential Rezoning Overlay Conditions shall mean conditions proposed by the applicant and approved by the Township as part of an approval under this Section, which shall constitute regulations for and in connection with the development and use of property approved with a Planned Residential Rezoning Overlay in conjunction with a Rezoning. Such Planned Residential Rezoning Overlay Conditions may permit all uses and development permitted in the zoning district proposed by the Rezoning, and as applicable, uses contemplated for the subject property or area as described in the adopted Township Master Plan (and shall not permit uses or development expressly or implicitly prohibited in the PRRO Agreement), and may include some or all of the following, in addition to conditions imposed by the Township under ~~MCL 125.286d~~ **MCL 125.3504:**

1. The location, size, height, or other measures for and/or of buildings, structures, improvements, set backs, landscaping, buffers and other features shown on the PRRO Site Plan.
2. 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 for particular activities, and the like.

3. Preservation of natural resources and/or features.
4. Facilities to address drainage/water quality.
5. Facilities to address traffic issues.
6. Preservation of open space.
7. 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 property owner(s) fail(s) to timely perform.
8. Other provisions proposed by the applicant and approved by the Township.
9. Signage, lighting, landscaping, building materials for the exterior of some or all structures.
10. Permissible residential uses of the property.

PRRO Agreement shall mean a written agreement approved and executed by the Township and property owner, incorporating a PRRP Site Plan, and setting forth Planned Residential Rezoning Overlay Conditions, conditions imposed pursuant to ~~MCL 125.286d~~ **MCL 125.3504** and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a Rezoning with Planned Residential Rezoning Overlay. Mutually agreeable terms may include the following:

1. Agreement and acknowledgment that the Rezoning with Planned Residential Rezoning Overlay 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 PRRO Agreement; and, further agreement and acknowledgment that the conditions and PRRO 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.
2. Agreement and understanding that the property in questions shall not be developed or used in a manner inconsistent with the PRRO Site Plan and PRRO Agreement.
3. Agreement and understanding that the approval and PRRO Agreement shall be binding upon and insure to the benefit of the property owner and Township, and their respective heirs, successors, assigns, and transferees.
4. Agreement and understanding that, if a Rezoning with Planned Residential Rezoning Overlay becomes void in the manner provided in Subsection D.3(a), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
5. Agreement and understanding that each of the requirements and conditions in the PRRO 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 Planned Residential Rezoning Overlay, taking into consideration

the changed zoning district classification and the specific use authorization granted.

PRRO Site Plan shall mean a plan of the property which is the subject of a Rezoning with Planned Residential Rezoning Overlay, prepared by a licensed civil engineer or architect, that may show the location, size, height or other measure for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the PRRO Site Plan shall be determined by the applicant, subject to approval of the Township.

Rezoning shall mean the amendment of this Ordinance to change the zoning map classification on property from its existing district to a new residential district classification.

Section 13. Amendment of Section 27.04.04, C, 1. Section 27.04.04, C, 1 is amended to read as follows:

C. Authorization and Eligibility

1. A property owner shall have the option of making an election under this Section 27.04.04, in connection with a submission of a petition seeking a Rezoning for residential purposes. Such election may be made at the time 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 Section for approval of a Planned Resolution Rezoning Overlay that would establish a site-specific residential use authorization if the petition for Rezoning is granted. Such election shall be to seek a Rezoning with Planned Residential Rezoning Overlay pursuant to ~~MCL 125.286e~~ **MCL 125.3503**, and consistent with the Township adopted Master Plan, which would represent a legislative amendment of the Zoning Ordinance. This Section shall not apply to a proposed Rezoning which is not for residential use.

Section 14. Amendment of Section 27.04.04, D, 1. Section 27.04.04, D, 1 is amended to read as follows:

- D. Approval of Rezoning with Planned Residential Rezoning Overlay
 - 1. Pursuant to ~~MCL 125.286e~~ **MCL 125.3503**, the Township Board, following public hearing at and recommendation by the Planning Commission, may approve a petition for a Rezoning with a Planned Residential Rezoning Overlay requested by a property owner.

Section 15. Amendment of Section 27.04.04, D, 1, a, iii. Section 27.04.04, D, 1, a, iii is amended to read as follows:

- iii. A PRRO Agreement, approved by the Township attorney and attorney for the applicant, shall incorporate the PRRO Site Plan, and set forth the Planned Residential Rezoning Overlay Conditions and conditions imposed pursuant to ~~MCL 125.286d~~ **MCL 125.3504**, together with any other terms mutually agreed upon by the parties (including the minimum provisions

Section 16. Amendment of Section 27.04.04, E, 3. Section 27.04.04, E, 3 is amended to read as follows:

- 3. The proposed Rezoning with Planned Residential Rezoning Overlay, together, shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance pursuant to ~~MCL 125.286e~~ **MCL 125.3503**.

Section 17. Amendment of Section 27.04.04, E, 5. Section 27.04.04, E, 5 is amended to read as follows:

- 5. Upon receipt of the recommendation of the Planning Commission, the Township Board shall commence deliberations on the proposed Rezoning with Planned Residential Rezoning

Overlay. If the Township Board determines that it may approve the Rezoning with the Planned Residential Rezoning Overlay, the Township Board shall specify tentative conditions under ~~MCL 125.286d~~ MCL 125.3504, and direct the Township attorney to work with the applicant in the development of a proposed PRRP Agreement.

Section 18. Amendment of Section 32.00.00 Section 32.00.00 is amended to include the following definitions, in alphabetical order:

Board of Appeals: See "Zoning Board of Appeals."

Zoning Board of Appeals: The Zoning Board of Appeals of Oakland Charter Township.

Section 19. Severability and Captions. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 20. Administrative Liability. No officer, agent or member of the Township Board shall render himself or herself personally liable for any damage which may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties pursuant to this Ordinance.

Section 21. Repeal. Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

Section 22. Effective Date. This Ordinance is ordered to take effect seven (7) days following publication of adoption in The Oakland Press, a newspaper having general circulation in the Township, under the provisions of the Zoning Enabling Act, Public Act 110 of 2006, as amended.
