

Chapter 29, Administration and Enforcement

SECTION 29.00 ZONING ADMINISTRATOR

- A. Authority. Except where expressly provided otherwise in this Ordinance, the provisions of this Ordinance shall be interpreted and enforced by the Zoning Administrator. The term 'Zoning Administrator' shall include any official or officials designated by the Township Board to administer this Ordinance.
- B. Duties and Limitations. The Zoning Administrator shall carry out the following duties and have the following limitations:
1. The Zoning Administrator shall have the authority to inspect buildings or premises necessary to carry out duties in the enforcement of this Ordinance.
 2. The Zoning Administrator shall require that an application for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by a site plan, in accordance with Chapter 4 of this Ordinance.
 3. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance and all other pertinent regulations, the Zoning Administrator shall approve said application. If an application is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
 4. Approval of plans or applications shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any Person making application to excavate, construct, move, alter, or use Buildings, Structures, or land, except as such authority may be explicitly provided for in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.
 5. The Zoning Administrator shall not refuse to approve any application or issue any permit when the applicant has complied with all applicable conditions required by this Ordinance and all other pertinent ordinances and regulations. Violations of contracts such as covenants, deed or plat restrictions, or private agreements which may result upon the granting of a permit or approval of an application are not cause for refusal to issue a permit or reject a plan.
 6. The Zoning Administrator shall maintain and safely keep copies of all plans and payments submitted with applications for permits. These shall form a part of the records of his/her office and shall be available to the public as necessary.
 7. The Zoning Administrator shall work in conjunction with the Montcalm County Sheriff Department for issuance and serving of appearance tickets on any person where there is reasonable cause to believe that the person or his/her place of business has committed a violation of this Ordinance.

8. The Zoning Administrator shall attend Planning Commission, Township Board, Zoning Board of Appeals, and other such meetings as requested by the Township Board as necessary to provide necessary information on pertinent zoning and planning issues.
9. The Zoning Administrator shall submit to the Township Board a monthly statistical report detailing the number of zoning permits, complaints, and burning permits issued, along with a written report to the Township Supervisor outlining key issues that occurred in the previous month for members of the Township Board to review prior to their monthly meeting.

SECTION 29.01 PERMITS

A. Zoning Permits.

1. It shall be unlawful to erect, alter, move, or substantially repair any building or structure, or begin excavation or site work for such building or structure, or commence or expand a land use or activity, unless a zoning permit has first been issued by the Zoning Administrator for such work.
2. It shall be unlawful to alter the contour of the land, remove, or damage wetlands or environmentally sensitive areas, or to change the type of use or type of occupancy of any building, unless the Zoning Administrator has issued a zoning permit for the intended use.
3. Before any zoning permit is issued, an application shall be submitted to the Zoning Administrator. Each application shall include sufficient information to allow the Zoning Administrator to determine compliance with this Ordinance and shall include, as a minimum, the following information:
 - a. The location and actual dimensions of the lot or premises to which the permit will apply;
 - b. The area, size, and location of all buildings or structures to which the permit is to apply;
 - c. The existing and proposed use of land, buildings, or structures to which the permit will apply;
 - d. The use of land, buildings, or structures on adjoining lands; and
 - e. The width of all abutting streets;
4. The Zoning Administrator, in his/her discretion, may waive the inclusion of any of the foregoing information in an application if he/she determines that such information is not reasonably necessary to determine compliance with the terms and provisions of this Ordinance.
5. Application and escrow fees for the inspection and issuance of zoning permits shall be collected by the Township prior to the processing and issuance of a zoning permit. The amount of such fees shall be established by Township Board and shall also cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.
6. The Zoning Administrator shall either issue a zoning permit if the proposed work or use is in conformance with the terms and provisions of this or any other Ordinance or deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case, the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his/her agent.

The Zoning Administrator may attach reasonable conditions to the issuance of any zoning permit.

7. Any zoning permit issued under the provisions of this Ordinance shall be valid for a period of one year following the date of issuance thereof. Any project which has not substantially commenced within the one-year period may not be started or continued unless the permit is reissued, extended, or a new zoning permit is issued pursuant to the provisions of this Section.
8. No building, structure, or use for which a zoning permit has been issued shall be used or occupied until after a final inspection has been performed that indicates all the provisions of this Ordinance are met and a certificate of occupancy has been issued by the Building Official.
9. The issuance of a zoning permit shall not be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land.
10. The Zoning Administrator shall have the power to revoke or suspend any zoning permit in the event that an applicant fails to comply with this Ordinance or the permit, or in the event of any false statements or misrepresentations in the application for the permit. Notice of such suspension and revocation shall be securely posted at the site of the application, and such posting shall be considered as notice to the permit holder of the suspension or revocation of the permit.
11. A violation of any condition attached to a zoning permit is also a violation of this Ordinance.

B. Building Permits

1. In all cases where a building permit is required, application for a zoning permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than 10 days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. No building permit shall be issued unless and until a zoning permit is issued first by the Township. If a zoning permit is revoked, then the building permit shall also be revoked as well.
2. No building or structure shall be erected, altered, moved, or substantially repaired unless a Building Permit has been issued by the Township or the Montcalm County Building Department for such work.
3. No building or structure shall be erected, altered, moved, or substantially repaired, and no land use shall commence until all applicable construction code permits, inspections, and final approvals for such work are completed by the Township or the Montcalm County Building Department.
4. No building permits shall be issued by the Township or the Montcalm County Building Department unless a Zoning Permit is issued by the Zoning Administrator.
5. Eureka Charter Township has adopted all current construction codes for building, mechanical, plumbing, and electrical work as adopted and enforced by the State of Michigan Department of

Labor and Economic Growth.

6. The holder of every building permit for the construction, erection, alteration, repair, or moving of any building or structure shall notify the Building Official immediately upon completion of the work authorized by the permit for a final inspection.
 - a. A Certificate of Occupancy shall be issued by the Township or the Montcalm County Building Department for major renovations, new construction, and changes in use.
 - b. Fees for issuance of building permits and inspections may be collected by the Township or the Montcalm County Building Department. The fees shall be established by Resolution of the Montcalm County Board of Commissioners or the Township Board.
- C. Reapplication. No application for a zoning permit, Site Plan Review, Special Land Use, Planned Unit Development, or Variance that has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals, may be resubmitted for a period of 12 months from the date of the denial, except on the grounds of newly discovered evidence or unless the site plan is substantially changed in the opinion of the Zoning Administrator.

SECTION 29.02 PLANNING COMMISSION

Eureka Charter Township has created a Planning Commission in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended. See "Ordinance to Confirm the Establishment of the Planning Commission with Zoning Authority" (Ordinance #82), as amended.

SECTION 29.03 PUBLIC HEARINGS AND NOTICES

Where this Ordinance requires the Township to provide notice of a public hearing for any decision or action permitted, authorized, or required by this Ordinance or under Act 110 of the Public Acts of 2006 as amended, notice of the public hearing shall be given as follows:

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. Except as provided in subsection D below, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
 1. The applicant;
 2. The owner or owners of the subject property;
 3. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request, even if the 300 feet extends outside of the Township's boundaries; and
 4. The occupants of all structures within 300 feet of the property that is the subject of the application or request, even if the 300 feet extends outside of the Township's boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

- C. The notice of public hearing shall include the following information:
1. A description of the nature of the proposed amendment, application, or request.
 2. An identification of the property that is the subject of the application or request, if applicable. Except as provided in subsection D below, 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 and another means of identification of the property shall be used.
 3. State when and where the application or request will be considered.
 4. Identify when and where written comments will be received concerning the application or request.
 5. In the case of an amendment to the Ordinance or to the Zoning Map, the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
- D. When a proposed amendment involves the text of the Zoning Ordinance or rezoning of 11 or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation of the Zoning Ordinance or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of subsections B(2), B(3) and B(4), of this Section are not required, and the listing of individual property addresses under subsection C(2) is not required.
- E. For a zoning ordinance amendment, including the rezoning of property, the notice shall be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township for the purpose of receiving the notice of public hearing.
- F. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 29.04 AMENDMENTS

- A. Procedure.
1. Written applications for the adoption of a zoning change or amendment to this Ordinance, including the zoning map, may be initiated by:
 - a. Any public agency;
 - b. Any interested person, per item A,2 below;
 - c. The Planning Commission;
 - d. The Zoning Board of Appeals; or
 - e. The Township Board.

2. If said application is for a zoning change, an “interested person” shall either be the owner of the property that is being considered for the zoning change, or if not the owner of the property, the applicant shall submit a written statement from the property owner indicating his or her permission to submit such application.
3. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least 21 days prior to the first consideration by the Township Planning Commission. An application for a zoning amendment shall consist of:
 - a. The name, address, and interest of the person making the request and the name, address, and interest of all persons having a legal or equitable interest in any land that is requested to be rezoned.
 - b. A written statement from the property owner indicating his or her permission to submit such application, if applicable.
 - c. The nature and effect of the proposed amendment.
 - d. Payment of a fee, as established by the Township Board.
 - e. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
 - f. The alleged error in the ordinance, if any, that would be corrected by the proposed amendment, along with a detailed explanation of such alleged error and an explanation why the proposed amendment will correct it.
 - g. All other circumstances, factors, and reasons that the petitioner offers in support of the proposed amendment.
 - h. If the proposed amendment would require a change in the Zoning Map, the following shall also be required:
 - 1) A fully dimensioned map clearly showing the property to be considered for the zoning change, including all properties within 300 feet of the subject property;
 - 2) The current zoning of the property to be considered for a zoning change and of all abutting lands;
 - 3) All public and private rights-of-way and easements bounding and intersecting the land to be rezoned.
 - 4) A legal description of the property to be considered for the zoning change.
4. The Planning Commission, after holding a public hearing conducted in accordance with the requirements of the Michigan Zoning Enabling Act, as amended, shall forward the application with a recommendation to the Township Board for its consideration.
5. Upon receipt of the recommendation from the Planning Commission, the Township Board shall either approve or deny the requested amendment in accordance with the procedures adopted by

the Board.

B. Map Amendment (Rezoning).

1. In making its recommendation on a proposed amendment of the Zoning Ordinance to the Township Board, the Planning Commission shall consider the following factors:
 - a. If the proposed zoning amendment is consistent with the Township's adopted Master Plan;
 - b. If the proposed zoning amendment is consistent with recent development trends in the area;
 - c. If the zoning amendment is compatible with existing and future land uses in the vicinity of the subject site or throughout the zoning district(s) affected by the proposed amendment;
 - d. If existing or planned public infrastructure, including streets, sanitary sewers, storm water, water mains or wells, sidewalks, and street lighting are capable of accommodating potential changes in land use resulting from the proposed amendment;
 - e. If the proposed amendment is consistent with the intent and purpose of this Ordinance and whether the proposed amendment would protect the health, safety, and welfare of the Township;

C. Text Amendment.

1. Prior to making a recommendation on a proposed amendment of the Zoning Ordinance text to the Township Board, the Planning Commission shall consider the following factors:
 - a. If the proposed text amendment would clarify the intent of the Ordinance or correct an error;
 - b. If the proposed text amendment would address changes to state legislation, recent case law, or opinions from the Attorney General, or promote compliance with changes in other county, state, or federal regulations;
 - c. If the proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items;
 - d. If the proposed amendment is consistent with the Township's ability to provide adequate public facilities and services and is consistent with the Township's desire to protect the public health, safety, and welfare of the community; and
 - e. In the event the amendment will add a use to a district, if the proposed use is fully consistent with the character of the range of uses provided for within the district, and that the amendment will not create incompatible land uses within a zoning district or between adjacent districts.

SECTION 29.05 FEES AND APPLICANT ESCROW ACCOUNTS

- A. The Township Board may establish by resolution, fees for appeals, applications for amendments, special land uses, site plan reviews, zoning permits, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township Hall and may be altered only by resolution of

the Township Board. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

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

SECTION 29.06 PERFORMANCE GUARANTEES

In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the health, safety, and welfare of the residents of the Township, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Zoning Administrator, Planning Commission, Zoning Board of Appeals or Township Board may require the applicant to deposit a Performance Guarantee with the Township as set forth herein. The purpose of the Performance Guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping. Performance guarantees may also be required as a condition of approval for land uses that may be temporary in nature and where the reclamation or restoration of a site to an acceptable condition will be needed, such as mining operations, wind and/or solar energy systems, and similar uses.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator. All performance guarantees shall be subject to approval by the Township.
- B. When a performance guarantee is required, said performance guarantee shall be deposited with the Township prior to the issuance of a zoning permit by the Zoning Administrator for the development and use of the land.

- C. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the Township to permit the Township to enter upon the subject property to complete the improvements at the cost of the applicant, in the event of default by the applicant.
- D. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the zoning permit.
- E. Upon the satisfactory completion of the improvement for which the performance guarantee as required, and as determined by the Zoning Administrator, the Township shall return to the applicant the performance guarantee deposited.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the township and prior to the issuance of a zoning permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

SECTION 29.07 ENFORCEMENT

- A. If the Zoning Administrator shall find that any of the provisions of this Ordinance are violated, he/she shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this Ordinance.
- B. A violation of this Ordinance shall be a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The following shall apply to any person determined responsible for a municipal civil infraction:

1. Penalty. A municipal civil infraction shall be punished by a fine as determined annually by the Eureka Charter Township Board, at the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law.
 2. Separate Offense. Each act of violation and every day during which any violation continues shall be deemed a separate offense.
 3. Compliance Required. The imposition of any sentence, fine, penalty, or remedy shall not exempt or excuse an offender from compliance with the provisions of this Ordinance.
 4. Relief. The foregoing penalties shall not prohibit Eureka Charter Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
- C. Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this Ordinance and is 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.
- D. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance per se. The Township's remedies are cumulative and not exclusive. Should the Township prevail in any court action to enforce this Ordinance, either in whole or in part, then the Township shall also be awarded its attorney fees and costs.
- E. The prohibitions and penalties of this Ordinance shall apply not only to the landowner or owners and to any person, firm, entity, corporation or association who or which does anything prohibited by this Ordinance and those who aide and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property in violation of this Ordinance.

SECTION 29.08 CERTIFICATE OF OCCUPANCY

No land shall be used and no building hereafter erected or altered shall be occupied or used for any purpose until a Certificate of Occupancy shall have been issued by the Building Official stating that the premises or building complies with the provisions of approved plans and all Ordinances of the Township. Where any special land use, variance, or site plan review conditions are applicable, said conditions shall be stated on the Certificate of Occupancy. A record of all Certificates of Occupancy shall be kept on file in the Township. A copy also shall also be sent to the Township Assessor. Where a Building Permit is not involved, the Zoning Administrator shall issue a Zoning Permit. Said permit may be in the form of a letter or such instrument as determined by the Township Board to be fulfill the requirements of this section. No Certificate of Occupancy shall be issued where the structure or lot involved is in violation of this Ordinance, any other Township ordinance or any state or county law or regulation.

SECTION 29.09 STOP WORK ORDERS

- A. Notice to Owner. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance. Any person who continues to work on, in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 29.10 ZONING AGREEMENTS; CONDITIONAL REZONING

- A. The Township Board recognizes that there are certain instances where it would be in the best interest of Eureka Charter Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this section to provide a process by which an applicant seeking a change in zoning districts may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.
- B. The following definitions shall apply to this section:
 - 1. Rezoning Offer - shall mean conditions proposed by the applicant and approved by the Township that are processed as part of an approval under this section. These conditions shall constitute permanent requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.
 - 2. Zoning Agreement - shall mean a written agreement offered by the applicant and approved and executed by the applicant and the Township and recorded with the Montcalm County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan or other approvals that may be required by this Ordinance.
- C. Eligibility: An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning.
- D. Zoning Agreement
 - 1. The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:
 - 2. The Zoning Agreement and the Rezoning Offer were proposed voluntarily by the applicant, and that the Township relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.

3. The Zoning Agreement and its terms and conditions are authorized by all applicable state and federal laws and constitutions, and that the Zoning Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the Township.
4. The property shall not be developed and/or used in any manner that is not consistent with the Zoning Agreement.
5. The approval and the Zoning Agreement shall be binding upon the property owner and the Township, and their respective heirs, successors, assigns, receivers, or transferees.
6. If a rezoning with a Zoning Agreement becomes void in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.
7. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification and the specific use(s), structures, activities, or conditions authorized.
8. No part of the Zoning Agreement shall permit any activity, use, structure, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

E. Rezoning Offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not allowed in the new zoning district; nor may any variances from height, area, setback or similar dimensional requirements in the Zoning Ordinance of Eureka Charter Township be allowed unless a variance has been previously granted by the Zoning Board of Appeals pursuant to the requirements of Chapter 24 hereof.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a special land use permit and/or site plan shall be approved as required in this Ordinance prior to establishment of or commencement of development of the use.

F. Procedure for Application, Review and Approval

1. An application for rezoning shall be the same as specified in the Zoning Act. In addition to the required materials listed, a Zoning Agreement in a recordable format acceptable to the Township shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.
2. The application may be amended during the process of Township consideration, provided that any amended or additional Rezoning Offers are entered voluntarily by the applicant.

3. The Zoning Agreement shall be reviewed by the Township Attorney prior to the required Planning Commission public hearing. The Township Attorney shall determine that the Zoning Agreement conforms to the requirements of this section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is a form acceptable for recording with the Montcalm County Register of Deeds.
4. An escrow fee deposit may be required by the Township to cover any and all costs incurred for addressing the Zoning Agreement request.

G. Approval

1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement. The Township Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district as well as the Zoning Agreement; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Zoning Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Montcalm County Register of Deeds by the applicant with proof of recording provided to the Township.
4. Prior to development, a site plan shall be approved in accordance with this Ordinance, if otherwise required.

H. Continuation

1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
2. Failure to comply with the Zoning Agreement at any time after approval may constitute a breach of agreement, and further use of the property may be subject to legal remedies available to the Township.

I. Amendment

1. During the initial two (2) year period, or during any extension granted by the Township as permitted above, the Township shall not add to or alter the Rezoning Offer in the Zoning Agreement.

2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement

SECTION 29.11 TIME LIMITS

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval or permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

SECTION 29.12 PROOF OF OWNERSHIP

The Zoning Administrator or Building Official may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a Zoning Permit or a Building Permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a Building Permit, variances, special land use requests, site plan review, Zoning Permits, and any other zoning or building code action.

SECTION 29.13 SURVEYS

The Zoning Administrator or Building Official shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Official determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Official may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All surveying costs shall be paid for by the applicant or property owner.

SECTION 29.14 REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be

deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

SECTION 29.15 REVOCATION OR TERMINATION OF ZONING APPROVALS

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or Zoning Permit, then the Township body, board, or official that granted the zoning approval or permit may terminate the zoning approval or Zoning Permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

SECTION 29.16 SEVERABILITY

This Ordinance and each section, subsection, paragraph, subparagraph, or any provision thereof, shall be deemed to be severable. If any section, subsection, paragraph, subparagraph, or any other provision of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in force and effect.

SECTION 29.17 NO ADMINISTRATIVE LIABILITY

No officer, agent, employee, Building Official, Zoning Administrator, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall be personally liable for any damage that may accrue to any Person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

SECTION 29.18 NON-ESTOPPEL AND NON-WAIVER

If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error or in an *ultra vires* or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law "rule of municipal non-estoppel" shall benefit the Township, as well as its officials, officers, bodies and commissions.

SECTION 29.19 REPEALER

The former Zoning Ordinance of this Township (Ordinance #79), effective December 16, 2007, and all amendments thereto prior to January 1, 2021, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder. All other ordinances and parts of ordinances, or amendments thereto, of the Township, in conflict with the provisions of this Ordinance, except those ordinances and parts of ordinances or amendments thereto which are more restrictive than this Ordinance, are hereby repealed to the extent of such conflict.

SECTION 29.20 EFFECTIVE DATE

This Ordinance was adopted at a regular meeting of the Eureka Charter Township Board on May 9, 2022, and is ordered to take effect upon the expiration of eight (8) days following publication of adoption in *The Daily News*, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.