

ARTICLE 18.00

GENERAL PROCEDURES AND RELATED STANDARDS

Section 18.01 Purpose

The purpose of this Article is to provide procedures and standards for the processing of all requests for Township action or review under the provisions of this Ordinance.

Section 18.02 Site Plan Review

A. Site Plan Approval Required

The following buildings, structures and uses, including their erection or structural alteration, change or creation of a new use within an existing building or structure or within a new building or structure, or modifications or amendments, thereto require site plan review and approval under this section.

1. A building containing two (2) or more dwelling units.
2. Any principal building, structure, or addition thereto, except single family residential dwellings, their customary accessory uses and farm buildings, permitted in any residential district.
3. Essential service buildings and structures.
4. Any parking lot or parking lot expansion when not a part of a development or use for which site plan review and approval is required elsewhere in this section.
5. Any use in any of the following zoning districts:
 - a) R-1 Single Family Residential District, except single family dwellings
 - b) R-2 Single Family Residential District, except single family dwellings
 - c) R-3 Single Family Residential District, except single family dwellings
 - d) RM-1 Multiple Family Residential District, except single family dwellings
 - e) RM-2 Multiple Family Residential District, except single family dwellings
 - f) RM-3 Multiple Family Residential District, except single family dwellings
 - g) O-1 Office Service District
 - i) C-1 Neighborhood Commercial District
 - j) RC Recreation Commercial District
 - k) C-2 General Commercial District

- l) I-1 Light Industrial District
 - m) I-2 General Industrial District
6. All Special Uses.
7. Any mineral extraction operation, excavation, earth removal operation, grading activity, earth-filling activity and any other activity resulting in the removal or addition of earth, soil, or other similar material except for such activities as are a normal, necessary and integral part of any other activity which is exempted from or not required to undergo site plan review. Excavations necessary for basements and drain fields for single-family residences and grading or excavation necessary for drain fields or septic tanks do not require site plan review.
8. Manufactured Home Park Plans: Approval of the Planning Commission and Township Board shall be required for the site plan of a mobile home/manufactured housing park in accordance with Article 8.00. The Michigan Department of Commerce shall have the authority to approve the construction plans.

B. Site Plan Not Required

Site plan review and approval is not required for the following activities:

- 1. Construction, moving, relocating or structurally altering a single family dwelling, including any customary accessory structures
- 2. Development of a principal agricultural use, or the construction, moving, relocation or structural alteration of permitted agricultural structures, including any customary accessory structures.
- 3. Any excavation, filling, soil removal, or mining that are less than one thousand (1,000) square feet in area provided that such activity is normally and customarily incidental to single family and agricultural uses as described in this subsection. (updated 05/13/08)

C. Prohibitions Related to Site Plan Approval

No grading, removal of vegetation, filling of land or construction shall commence for any development for which site plan approval is required until a site plan is approved and is in effect.

D. Optional Preliminary Review

An applicant may submit an application for review of a preliminary site plan by the Planning Commission prior to submittal of a complete site plan. The purpose of a preliminary site plan is to permit the applicant to obtain preliminary feedback on the potential location of buildings, points of egress and ingress to the site, and an indication of other likely improvements necessary to facilitate the preparation of the site plan. Generally the preliminary submittal should include the building footprint, general parking lot lay out, location of driveways, conceptual grading, conceptual landscaping, conceptual building elevations and materials, and similar items. The direction given to an applicant during a preliminary site plan review is non-binding. The Township may require a review fee for a preliminary site plan review.

E. Application for Site Plan Approval

1. Any person having a legal interest in a lot or parcel may apply for site plan approval by filing a completed site plan application with all necessary forms and fees and submitting no fewer than fifteen (15) copies of the site plan to the Township at least fifteen (15) days prior to the date of the regularly scheduled Planning Commission meeting at which the site plan is to be first considered.
2. All site plans sheets shall be prepared and sealed by a civil engineer, architect, landscape architect, or registered in the State of Michigan, as appropriate for their field of expertise. The name, address, and phone number of other professionals shall be given on appropriate sheets of the plans.

F. Information Required with or on a Site Plan

Each site plan submitted for review shall provide (or be submitted concurrently with documents containing) the following information:

1. Scale, north arrow, name of development, date plan drawn and date of revisions.
2. Name, address and phone number of property owner and applicant; name, address and phone number of developer.
3. The applicant's interest in the property, and if the applicant is not the fee simple owner, a signed authorization from the owner(s) for the application.
4. Name, address and phone number of firm or person who prepared the site plan.
5. A vicinity map; the property code; legal description of the property, including parcel boundary dimensions and area. Where a metes and bounds description is used, lot line angles or bearings shall be based upon a boundary survey prepared by a registered surveyor and shall correlate with the legal description.
6. Existing topography (minimum contour interval of two feet); existing natural features such as trees; wooded areas, streams, marshes, ponds and other wetlands; clear indication of all natural features to remain and to be removed. Groups of trees shall be shown on an approximate outline of the total canopy; individual deciduous trees of six (6) inch caliper or larger and individual evergreen trees eight (8) feet in height or higher, where not a part of a group of trees, shall be accurately located on the site plan.
7. Existing buildings, structures, and other improvements, including drives, utility poles and towers, easements, pipelines, excavations, ditches (elevations and drainage directions), bridges, culverts; clear indication of all improvements to remain and to be removed.
8. General description of deed restrictions, if any.
9. Owner, use, and zoning classification of adjacent properties; location and outline of buildings; drives, parking lots, and other improvements on adjacent properties within one hundred (100) feet of the property boundaries; curb cuts on sites on opposite sides of the road.

10. Existing public utilities on or serving the property including location and size of water lines and hydrants; location, size and inverts for sanitary sewer and storm sewer lines; location of manholes and catch basins; location and size of well, septic tanks and drain fields.
11. Name and right-of-way of existing streets, private roads and/or recorded easements on or adjacent to the property; surface type and width; spot elevations of street, private road or recorded easement surface, including elevations at intersections with streets and drives of the proposed development.
12. Zoning classification of the subject property; location of required yards; total ground floor area and lot coverage (percent). In the case of residential units, the plan shall note dwelling unit density, lot area per dwelling unit, and a complete schedule of the number, size and type of dwelling units.
13. Grading plan, showing finished contours at a minimum interval of two (2) feet, and correlated with existing contours so as to clearly indicate cut and fill required. All finished contour lines are to be connected to existing contour lines at or before the property lines.
14. Location and exterior dimensions of proposed buildings and structures with the location to be referenced to property lines or to a common base point; distances between buildings; height in feet and stories; finished floor elevations; contact grade elevations; and all required setbacks.
15. Floor plans of principal buildings and architectural elevations of principal buildings, canopies, and structures, including rooftop mechanical equipment and method of screening. Architectural elevations shall be drawn to scale, showing the location and extent of all materials. Each material shall be identified as to type and color by drawing notes. All gateway structures, canopies and trash enclosures shall be indicated on the drawings.
16. Location and alignment of all proposed streets and drives; right-of-ways where applicable, (with approval of the appropriate agency having jurisdiction,) location and typical details of curbs; turning lanes, with details (where applicable); location, width, surface elevations and grades of all entries and exits; curb radii.
17. Location and dimensions of proposed parking lots; numbers of spaces in each lot; dimensions of spaces and aisles; drainage pattern of lots; typical cross-section showing surface, base and sub-base materials; angle of spaces.
18. Location and size of proposed improvements of open space and recreation areas, and maintenance provisions for such areas.
19. Location, width, and surface of proposed sidewalks and pedestrian ways.
20. Location and type of proposed screens and fences; height, typical elevation and vertical section of screens, showing materials and dimensions.
21. Location of proposed outdoor trash container enclosures; size, typical elevation, and vertical section of enclosures; showing materials and dimensions.
22. Location, type, size, area, and height of existing and proposed signs.

23. Layout, size of lines, inverts, hydrants, drainage flow patterns, location of manholes and catch basins for proposed sanitary sewer, water and storm drainage utilities; location and size of retention ponds and degree of slope of sides of ponds; location and size of underground tanks where applicable; location and size of outdoor incinerators; location and size of wells, septic tanks, and drain fields where applicable. If on-site water and sewer facilities are to be used, evidence of the approvability of such facilities shall be submitted prior to Planning Commission approval of site plan.
24. Landscape plan showing number location, type and size of plant materials along with a maintenance plan.
25. Description of measures to be taken to control soil erosion and sedimentation during grading and construction operations and until a permanent ground cover is established.
26. Location of proposed retaining walls; dimensions and materials of same, fill materials; typical vertical sections; restoration of adjacent properties, where applicable.
27. Location, type, direction, and intensity of outside lighting.
28. Right-of-way expansion where applicable; reservation or dedication of right-of-way to be clearly noted.
29. Location of underground transport lines (For example, pipelines).
30. Where applicable there shall be room allocated on each lot or parcel for a septic field and an alternate field.
31. The number of employees of industrial facilities.
32. A full and adequate explanation of the anticipated future use of the land, whenever the proposed activity is temporary.
33. An impact statement consistent with the provisions of this Ordinance shall be submitted when the Planning Commission or Township Board deems it necessary and appropriate in its sole discretion in order for the Commission or Board to arrive at a determination with respect to the application. Similarly, the Planning Commission or Township Board may require traffic, engineering, environmental or other studies, assessments or investigations at the applicant's expense.
34. The site plans submittal information for a manufactured housing park shall be as described in the Mobile Home Commission Act.

G. Standards for Site Plan Review

In reviewing the site plan, the Planning Commission shall determine that the following standards are observed:

1. That all required information has been provided.
2. That the proposed development conforms to all regulations of the Zoning District in which it is located.

3. That the applicant may legally apply for site plan review.
4. That the plan meets the specifications of Charter Township of Bangor for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services, and has been approved by the Township Fire Department.
5. That soils not suited to development will be protected or altered in an acceptable manner.
6. That the proposed development will not cause soil erosion or sedimentation problems.
7. That the proposed development properly respects floodways and/or flood plains on or in the vicinity of the subject property.
8. That the drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overloading of watercourses in the area. Development or usage of the kind shall not in any way increase surface water runoff to adjacent property owners.
9. That the proposed development is coordinated with improvements serving the subject property and with the other development in the general vicinity.
10. That outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets, consistent with the provisions of this Ordinance. The Planning Commission shall require a photometric study when it is determined necessary.
11. That outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
12. That grading or filling will not destroy the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties.
13. That vehicular and pedestrian traffic within the site as well as to and from the site is both convenient and safe.
14. That parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets and adjacent properties, and includes safe and convenient parking for handicapped users.
15. That the plan meets the standards of other government agencies, where applicable, and that the approval of these agencies has been obtained or is assured.
16. That the plan provides for the proper expansion of existing public streets serving the site, where applicable.
17. That all phased developments are ordered in a logical sequence so that any individual phase will not depend in any way upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
18. That landscaping and screening are provided and will be maintained.

19. That the proposed site is in accord with the spirit and purpose of this Ordinance and not be inconsistent with or contrary to the objectives sought to be accomplished by this Ordinance and principles of sound planning.
20. That adequate assurances have been received so that clearing the site of topsoil, trees and other natural features before the commencement of building operations, will occur only in those areas approved for the placement of physical improvements.
21. That the development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and volume of flood at other locations.
22. That the development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, hillsides or wooded areas, but will preserve and incorporate such features into the development's site design.

H. Planning Commission Action

The Planning Commission shall study the site plan and shall approve, approve subject to conditions, or reject the site plan. The Planning Commission may require reasonable changes in the proposed site plan. The Planning Commission shall include in its study of the site plan consultation with the Township Engineer, Township Planner, Township Building Official, the Township Fire Department and other government officials, departments and public utility companies that might have an interest in or be affected by the proposed development.

Upon Planning Commission approval of a site plan, the applicant, the owner(s) of record, or the legal representative thereof, the Planning Commission Chairperson and Secretary shall each sign four (4) copies of the approved site plan. The Planning Commission Secretary shall transmit one (1) signed copy of the plan and any conditions attached to the Building Official, and one (1) signed copy each to the Office of the Township Clerk and the applicant. The Planning Commission shall notify the applicant in writing of its action and the reasons therefore within thirty (30) days following the action.

I. Expiration of an Approved Site Plan

Approval of a site plan shall expire and be of no effect unless a land use permit and a building permit shall have been issued and actual construction has commenced within three hundred sixty-five (365) days of the date of Planning Commission approval of the site plan. Development shall be completed within two (2) years of the date of Planning Commission approval of a site plan. Failure to complete development within the two (2) year period will require re-submittal of the site plan for review.

If an approved site plan has expired as set forth herein, no permits for development or use of the subject property shall be issued until all applicable requirements of this Article have been satisfied.

The Planning Commission may, at its discretion, upon application of the property owner, provide one (1) twelve (12) month extension of site plan approval.

J. Amendment of an Approved Site Plan

A previously approved site plan may be amended by the Planning Commission upon application in accordance with the procedures identified in this Article. Minor changes during construction or certain changes in use may be approved by the Building Official when not more than two (2) of the following items apply. The Building Official has the authority to require any minor change to be

submitted to the Planning Commission for review and approval. If more than two (2) of the following items apply, the Planning Commission must review and approve the amendments. Additionally, the Building Official may refer any amendment request to the Planning Commission if, in the opinion of the Building Official, the proposed amendments require the Commission's review to determine that the integrity of the originally approved plan is preserved with the proposed revisions.

1. A change in the internal floor plan that does not increase the intensity of use or parking requirements.
2. Movement of a building, drive, road, or parking by up to five (5) feet during construction due to an unanticipated and documented constraint, to improve safety or to preserve a natural feature. The site plan shall still meet all required setbacks and other standards of this Ordinance.
3. An increase in open space or alteration of the open space boundary by up to ten (10) feet with no decrease in overall open space area.
4. Expansion, replanting, or alterations of landscaping areas or change in plant materials to similar species, consistent with the other requirements of this Ordinance.
5. Relocation of a trash receptacle to a more inconspicuous location.
6. Relocation of a sign or light fixture meeting the dimensional and location standards of this Ordinance.
7. Relocation of sidewalks, bike paths, or pathways with the intent of improving public convenience and safety.
8. The relocation or installation of fencing, including the change in type and height.
9. An increase in the building gross floor area up to five (5%) percent, provided such increase does not exceed 2,000 square feet.

K. Fees

Any application for site plan approval shall be accompanied by a fee as determined by resolution of the Township Board and amended from time to time. Such fee may be utilized by the Township to obtain the services of one (1) or more expert consultants qualified to advise as to whether the proposed development will conform to the applicable Township Ordinances, policies and standards, and for investigation and report of any objectionable elements.

L. Revocation

Any site plan approval shall be revoked when the construction of said development is not in conformance with the approved plans, in which case the Planning Commission shall give the applicant notice of intention to revoke such approved plans at least ten (10) days prior to review of the permit by the Planning Commission. After conclusion of such review, the Planning Commission shall revoke its approval of the development if the Commission feels that a violation in fact exists and has not been remedied prior to such hearing.

M. Performance Guarantee

To insure compliance with the Zoning Ordinance and any condition imposed there under, the Planning Commission, may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of all aspects of site improvements shown on the approved site plan, except the principal buildings or structures. Such performance guarantee shall be in accordance with Section 5.23.

The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity of the project. The Township shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

N. As Built Drawings

The following requirements shall pertain to as-built drawings:

1. The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances that were installed on a site for which a site plan was approved. The drawings shall be submitted to the Township prior to the release of any performance guarantee or part thereof covering such installation.
2. The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
3. The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of the licensed or registered (State of Michigan) professional who prepared the drawings.
4. The following requirements shall prevail relative to the subject of as-built drawings, with the exception that developers of a mobile home park are specifically exempted from the requirement of providing as-built drawings as stated in the Michigan Mobile Home Act. This exemption applies only to the as-built drawings.

O. Phasing of Development

The applicant may divide the proposed development into two or more phases. In such case each phase-specific site plan shall cover only the portion of the property involved. A final site plan shall be submitted for review and approval for each phase.

P. Site Plan Field Inspection

The Building Official shall be responsible for inspecting all improvements for conformance with the approved site plan. All sub-grade improvements, such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved by appropriate agencies prior to covering. The applicant shall be responsible for requesting the necessary inspections. The Building Official shall obtain inspection assistance from the Township Fire Department and/or consulting

professional personnel where appropriate. The Building Official shall notify the Township Board and the Planning Commission in writing when any development does not pass inspection with respect to the approved site plan. In such case, the Building Official shall periodically notify the Township Board and Planning Commission of progress toward compliance with the approved site plan and when compliance is achieved.

Section 18.03 Special Uses

The intent of this Section is to establish the process and standards whereby special uses may be granted. The types of uses requiring special approval shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to satisfaction of the procedures, requirements and standards set forth in this Ordinance. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following procedures and standards in a manner appropriate to the particular circumstances of such use. Each use as listed in any district requiring special approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district and will not be detrimental to the orderly development of adjacent districts and uses.

A. General Provisions

The formulation and enactment of this Ordinance is based upon the division of unincorporated portions of Bangor Township into districts in each of which certain specified, mutually compatible uses are permitted by right. In addition to such uses, however, there are certain other uses that are essential or desirable for the welfare of the community and its citizenry or substantial parts of it. Such uses are appropriate and not essentially incompatible with the uses permitted by right in a Zoning District, but not at every or any location therein, nor without restrictions or conditions being imposed by reason of special problems presented by the use or its particular location in relation to neighboring properties. This Ordinance, therefore, requires approval of a special use permit of each use listed in the several Zoning Districts as special uses and specifies in this Section the procedures and standards to be followed in granting such permits. No special use shall commence until a special use permit is issued in accordance with this Ordinance.

B. Authority To Grant Permits

The Planning Commission shall have the authority to grant special use permits and to attach conditions to any approved permit. Only those uses listed in each Zoning District as special uses shall be considered for special use permit review and approval.

C. Application and Fee

Application for a special use permit shall be made by filing the application form, required information, and the required fee with the Township. The fee shall be set by resolution of the Bangor Township Board. No part of the fee shall be returnable to the applicant without Township approval.

D. Information Required

An application for special use permit shall contain the following information:

1. The applicant's name, address, and telephone number.
2. The names and addresses of all record owners and proof of ownership.

3. The applicant's interest in the property, and if the applicant is not the fee simple owner, a signed authorization from the owner(s) for the application.
4. Legal description, address, and tax parcel number of the property.
5. A detailed site plan (if not required as a matter of course in the Zoning District affected) that satisfies all requirements set forth in Section 17.02, herein.
6. Any additional informational materials that the Township Planning Commission may feel are necessary in order to reach a finding as called for below.

E. Notification Requirements

1. Upon receipt of an application for a special use permit, a notice that a request for special use has been received shall be published in a public newspaper which circulates in the township, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than 15 days before the date of the public hearing at which time the request will be considered for approval. If the name of the occupant is not known, the term "Occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or a spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
2. The notice shall:
 - a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
(amended 9/12/06)

F. Required Standards and Findings

The Planning Commission shall review the particular circumstances and relevant facts concerning each proposed use in terms of the standards and required findings listed below. The Planning Commission shall find and record adequate data, information, and evidence showing that the proposed use on the lot or parcel in question meets all required standards. In addition to specific standards that may be applicable, the following standards shall serve the Planning Commission as the basis for decisions involving special land uses. Each proposed use or activity shall:

1. Be harmonious and in accordance with the objectives, intent, and purposes of this Ordinance.

2. Be compatible with the natural environment and existing and future land uses in the vicinity.
3. Be compatible with the Charter Township of Bangor Master Plan.
4. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage-ways and structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.
5. Not be detrimental, hazardous, or disturbing the existing or future neighboring uses, person, property or the public welfare.
6. Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

G. Planning Commission Action

The Planning Commission shall approve, approve with conditions, or deny a special use permit application. The Planning Commission's decision, the basis for the decision, and all conditions imposed, shall be described in a written statement, which shall be made a part of the record of the meeting.

The Planning Commission shall establish a time limit of not less than one (1) year during which time the approved special use permission shall remain in effect. If during this time no construction has begun on the approved project, the Planning Commission shall upon the request of the applicant review the special use and either deny, approve with further conditions, including an extension of time, to a specified date during which the special use shall remain valid. If no construction is started on the project during this time extension, the special use permit shall become void and if the applicant requests to continue with the special use project, it will be necessary to reapply for approval of the special use.

H. Appeal to Township Board

An applicant may appeal a decision by the Planning Commission relative to a special use permit application to the Township Board. The Township Board may reverse or affirm wholly or in part the Planning Commission's action.

I. Reapplication

No application for a special use permit which has been denied wholly or in part by the Township Board shall be resubmitted for a period of three hundred sixty-five (365) days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.

Section 18. 04 Variances and Appeals

A. Intent

The purpose of this Section is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

B. Creation of the Zoning Board of Appeals

1. There is hereby established a Zoning Board of Appeals (ZBA), which shall perform its duties and exercise its power as provided for in 2006 P.A. 110, as amended, know as the Michigan Enabling Act. The ZBA shall consist of five (5) members, as follows: (amended 9/12/06)
 - a) **Planning Commission Member**
The first member shall be a member of the Township Planning Commission, selected by the Planning Commission and appointed by the Township Board
 - b) **Remaining Members**
The remaining four (4) members shall be selected and appointed by the Township Board from among electors residing in the Township. One of these members may be a member of the Township Board, but he or she may not serve as a Chair of the ZBA. An employee or contractor of the Township may not serve as a member of the ZBA. The Township may appoint not more than two (2) alternate members for the same term as a regular member who may be called as specified to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings or where a regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member will have the same voting rights as a regular member of the ZBA. (amended 9/12/06)
2. **Terms of Office**
The Planning Commission and Township Board member of the Zoning Board of Appeals shall serve for only his/her term of office on the Planning Commission or Board. Of the remaining members, two (2) members shall serve for two (2) years and one (1) member for three (3) years.
3. **Exclusion and Removal of Members**
Except for the Planning Commission and Township Board representatives described above, other members of the Township Board, the Planning Commission, or any employee of the Township shall not serve simultaneously as a member, or as an employee of the ZBA. Members of the ZBA shall be removable by the Township Board for non-performance of duty or misconduct in office, upon filing of written charges and after public hearing before the Township Board.
4. **Majority of Members Required for Business**
The ZBA shall not conduct business unless a majority of the members of the ZBA is present.

C. Authority of the Zoning Board of Appeals

1. **General Authority**
The ZBA shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

2. **Administrative Review**

The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance.

3. **Interpretation**

The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations that have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences that may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.

4. **Variances**

The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (that is, height, bulk, setback) requirements of the Ordinance.

Such authority shall be exercised in accordance with the following standards:

- a) The ZBA may grant a requested variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
 - 1) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance conformity unnecessarily burdensome.
 - 2) The variance will do substantial justice to the applicant, as well as to other property owners.
 - 3) A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - 4) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
 - 5) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

- b) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other person may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

5. **Conditions**

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:

- a) To insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- b) To protect the natural environment and conserve natural resources and energy
- c) To insure compatibility with adjacent uses of land
- d) To promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements.

- a) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b) Be related to the valid exercise of the police power, and purposes that are affected by the proposed use or activity.
- c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance of the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

D. **Application and Notices**

1. **Application**

All applications to the ZBA shall be filed with the Township, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board and shall be submitted no fewer than (15) days prior to the date of the regularly scheduled Zoning Board of Appeals meeting. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

2. **Plot Plan**

A plot plan shall be required with all variance requests. The plan that shall accompany all variance requests shall be based on a land survey prepared by a registered land surveyor or registered engineer. The plan shall be at the scale of one (1) inch to fifty (50) feet and shall include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 17.02 shall satisfy the requirements of this section.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

3. **Application Involving an Appeal of Administrative Order**

In a case involving an appeal from an action of an administrative official or entity, the administrative official or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

4. **Consent of Property Owner Required**

Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

5. **Notice**

The ZBA shall fix a reasonable time for the hearing of the appeals, give notice thereof to the parties and decide the appeal within a reasonable time. Upon receipt of an application for a variance, a notice that a request for a variance has been received shall be published in a public newspaper which circulates in the township, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than 15 days before the date of the public hearing at which time the request will be considered for approval. If the name of the occupant is not known, the term "Occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or a spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

The notice shall:

- a. Describe the nature of the request.
- b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- c. State when and where the request will be considered.

- d. Indicate when and where written comments will be received concerning the request.
(amended 9/12/06)

6. **Stay of Proceedings**

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

7. **Decision by the Zoning Board of Appeals**

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a variance from the terms of this ordinance. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned.

E. **Disposition and Duration of Approval**

1. **ZBA Powers**

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.

2. **Decision Final**

A decision by the ZBA shall not become final until the expiration of twenty-one (21) days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.

3. **Period of Validity**

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than six (6) months, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

4. **Record of Proceedings**

The Township administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and

shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval.

The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.

5. **Appeal of a ZBA Decision**

Appeals of a ZBA decision may be taken to Bay County Circuit Court at the discretion of the applicant or any other aggrieved party.

6. **New Application for Variance**

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of three hundred sixty-five (365) days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

F. **Site Plan Requirements**

If an application or appeal to the Board of Appeals involves a development project that requires site plan approval by the Planning Commission, the applicant or appellant shall first apply for variance approval prior to request site plan approval. The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Commission's findings thereon to the Board of Appeals. The Board of Appeals shall, upon deciding on the application or appeal, return the plan and its decision to the Planning Commission for Commission action on the site plan.

Section 18.05 Zoning Amendments

The Bangor Township Planning Commission is created as specified in Section 3, 1959 P.A. 168, as amended, being the Township Planning Act. The Planning Commission shall have all powers, duties and responsibilities as provided to it in that Act and in 2006 P.A. 110, the Michigan Enabling Act, together with such other powers and duties as are given to such Planning Commission by the provisions of this ordinance, including authority to act on all matters requiring the approval or recommendation of such Planning Commission. The Township Board may amend or supplement the Zoning District boundaries or the provisions and regulations of this Ordinance. Amendments may be initiated by the Township Board, the Planning Commission, or by petition of one or more of the property owners of the property in question in Bangor Township. All proposed amendments shall be referred to the Planning Commission for review and recommendation before transmittal to the Township Board.

A. **Amendment Procedure**

1. The procedure for amending this Ordinance shall be in accordance with 2006 P.A. 110, as amended, known as the Michigan Zoning Enabling Act.
2. Amendments to this ordinance may be initiated by the Township Board, the Planning Commission, or by any landowner or agent acting on the land owner's behalf by petition to the Planning Commission. When a request is received, it shall be transmitted to the Planning Commission for review and report to the Township Board. The Planning Commission shall set a date, time and place for a public hearing. Notice of the public hearing shall be published in a

public newspaper which circulates in the Township. If ten (10) or fewer adjacent properties are proposed for rezoning, then the notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than 15 days before the date of the hearing. If the name of the occupant is not known, the term "Occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or a spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure. Notice of the public hearing shall also 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 Clerk of the Township for the purpose of receiving the notice of the public hearing. The notice shall:

- a. Describe the nature of the request, including the place and time at which the proposed text and any map may be examined.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. If eleven (11) or more adjacent properties are proposed to be rezoned, then this requirement may be omitted.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
(amended 9/12/06)
3. Within ninety (90) days of the filing date, the Planning Commission shall report its findings and recommendations for disposition of the petition to the Township Board following the public hearing. This time limit may be extended by agreement between the petitioner and the Planning Commission for a report thereon within a time specified by the Township Board. Thereafter the Township Board may act upon the petition.

B. Information Required

1. If a petition involves an amendment to the Zoning Map, the petitioner shall submit the following information:
 - a) A legal description of the property, including a street address and the tax code number(s).
 - b) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
 - c) The name and address of the petitioner.
 - d) The petitioner's interest in the property. If the petitioner is not the fee simple owner (s) or owner (s) of record, the owner (s) signed consent to the petition shall be provided.
 - e) Signature (s) of petitioner (s) and owner (s), certifying the accuracy of the

information.

- f) Identification of the Zoning District requested and the existing zoning classification of the property.
 - g) A vicinity map showing the location of the property, north arrow, and adjacent land uses and zoning classifications.
 - h) Any additional information deemed appropriate by the Planning Commission.
2. If a petition involves a change in the text of the Zoning Ordinance, the petitioner shall submit the following information:
- a) A detailed statement of the petition, clearly and completely setting forth all proposed provisions and regulations, including all changes in the Zoning Ordinance necessary to accommodate the proposed amendment.
 - b) Name and address of the petitioner.
 - c) Reasons for the proposed amendment.

C. Zoning Map Amendment Criteria

In considering any petition for an amendment to the Zoning Map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision:

- 1. Consistency with the goals, policies and future land use map of the Charter Township of Bangor Master Plan, including any sub-area or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
- 2. Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted under the current zoning.
- 3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.
- 4. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- 5. The capacity of Township utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township.
- 6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- 7. The apparent demand for the types of uses permitted in the requested zoning district in relation to the amount of land in the Township currently zoned and available to

accommodate the demand.

8. The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.
9. If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the Township's perspective than another zoning district.
10. If the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?
11. The requested rezoning will not create an isolated and unplanned spot zone.
12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
13. Other factors deemed appropriate by the Planning Commission and Township Board.

D. Zoning Ordinance Text Amendment Criteria

The Planning Commission and Township Board shall consider the following criteria for initiating amendments to the zoning ordinance text or responding to a petitioner's request to amend the ordinance text.

1. The proposed amendment would correct an error in the Ordinance.
2. The proposed amendment would clarify the intent of the Ordinance.
3. Documentation has been provided from Township staff or the Zoning Board of Appeals indicating problems or conflicts in implementation or interpretation of specific sections of the ordinance.
4. The proposed amendment would address changes to state legislation.
5. The proposed amendment would address potential legal issues or administrative problems with the Zoning Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.
6. The proposed amendment would promote compliance with changes in other Township ordinances and county, state or federal regulations.
7. 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.
8. Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the Township, promote implementation of the goals and policies of the Master Plan and enhance the overall quality of life in Bangor Township.

E. Effective Date and Publication

Following the required public hearing under A above, the Planning Commission shall transmit a summary of the comments received at the hearing together with the proposed amendment, including map, if any, and recommendations to the Township Board. Prior to acting upon the recommendation from the Planning Commission, the Township Board shall submit for review and recommendation the proposed amendment, including any map, to the zoning commission or the coordination zoning committee of the county, unless the county, by resolution, has previously waived its right to review the zoning ordinance, amendment or map. The county will have waived its right for review and recommendation if the recommendation from the county has not been received by the Township Board within 30 days from the date the proposed ordinance was received by the County. Thereafter upon approval, the Township Board shall publish within fifteen (15) days after adoption a notice of ordinance adoption conforming with Section 401 of 2006 P.A. 110, as amended, known as the Michigan Zoning Enabling Act in a newspaper of general circulation with the Township. At the time of publication, a copy of the same notice shall be mailed to the airport manager of an airport who has previously registered its name and mailing address with the Clerk of the Township for the purpose or receiving notice of the public hearing. (amended 9/12/06)

1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
2. The effective date of the amendment, the date of the public hearing, the date of Township Board action, and the date of publication.
3. The place and time where a copy of the Ordinance may be purchased or inspected.

Unless a notice of intent to request a referendum is filed, a Zoning Ordinance amendment shall take effect seven (7) days after such publication.

F. Referendum

Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed.

Within thirty (30) days following the adoption of an amendment to the Zoning Ordinance, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of Bangor Township equal to not less than fifteen (15) percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected may be filed with the Office of Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of Bangor Township for their approval.

G. Conformance to Court Decree

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.