

Land Use Controls

Subdivision Regulations

The Subdivision Control Ordinance outlines the procedures and standards used by the Township in exercising its authority to review and approve proposed subdivisions, pursuant to the Subdivision Control Act (Michigan Public Act 288 of 1967, as amended). Subdivision control ordinances typically require the appropriate design of lots and blocks, subdivision access, and such necessary internal improvements as internal streets and drainage, and water and sewer facilities.

The Subdivision Control Act places restrictions on a municipality's power to approve or reject plats, indicating that a rejection may not be based on any requirement other than those included in Section 105 of the Act. Nevertheless, many legal experts believe that the Act gives municipalities much greater authority than they have typically exercised. Lyon Township's Subdivision Ordinance should be thoroughly reviewed and revised to exercise the Township's full scope of authority in regulating subdivision design, environmental impacts, relationship to adjacent uses, and impact on level of public services. The design standards in the Subdivision Ordinance apply to condominiums as well.

Zoning Regulations

Zoning is the primary regulatory tool used by the Township to implement the Master Plan. According to Section 208 of the Michigan Zoning Enabling Act (Michigan Public Act 110 of 2006, as amended), "the zoning ordinance *shall be based upon a plan* designed to promote the public health, safety, and general welfare ..." Two categories of revisions to the Zoning Ordinance are necessary to effect many of the recommendations set forth in the plan: 1) revisions dealing with conventional zoning procedures, and 2) innovative zoning techniques.

- **Conventional Zoning Procedures**

Rezoning to Implement the Master Plan. The land use classifications on the Future Land Use Map provide the basis for evaluating future rezoning requests. Zoning actions that are consistent with the Future Land Use Map usually receive deferential and favorable judicial review if challenged. The Master Plan should be the principal source of information in the investigation of all rezoning requests.

Planned Development. Planned development involves the use of special zoning requirements and review procedures that provide design and regulatory flexibility, so as to encourage innovation in land use planning and design. Properly implemented, planned developments should achieve a higher quality of development than might otherwise be possible. Planned development can be used as the regulatory tool to permit open space zoning or cluster development and to facilitate redevelopment.

Incentive Zoning. Incentive zoning allows a developer to exceed the dimensional limitations in the Zoning Ordinance if the developer agrees to fulfill conditions specified in the Ordinance. Incentive zoning should be considered to promote innovative land planning techniques identified in the Plan. For example, an increase in density has been used as an incentive for developments that place large amounts of open space into a conservation easement.

Setback and Other Standards. It is important to review the required setbacks and other dimensional standards to be certain that they promote the desired type of development. For example, it may be necessary to re-think minimum setback and lot size standards where condominium redevelopment is mutually desired by the Township and developer.

- **Innovative Zoning Techniques**

Form-Based Coding. Form-based coding is a means of regulating development to achieve a specific urban form. Form-based codes create a predictable public realm by controlling physical form primarily, with a lesser focus on land use. Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. This is in contrast to conventional zoning, which is primarily focused on land use. Form based coding is the ideal regulatory tool to achieve compact, walkable urbanism. For these reasons, it is the ideal regulatory approval for downtown New Hudson.

Overlay Zoning. Overlay zoning allows the Township to impose a new set of regulations on a special area within an existing zoning district. In an area where an overlay zone is established, the property is placed simultaneously in the two zones, and the property may be developed only under the applicable conditions and requirements of both zones. Thus, the overlay district regulations supplement the regulations of the underlying zoning district. Overlay zoning has been used in other communities to address special conditions and features, such as historic areas, wetlands, and other environmentally sensitive areas, without disrupting the underlying zoning plan.

Open Space Zoning. Open space zoning is an alternative to conventional zoning that is intended to promote preservation of rural character and open space. The search for an alternative to conventional zoning came with the realization that conventional zoning often results in residential sprawl, which consumes large amounts of land and divides open spaces into fragments that are not conducive to wildlife habitat or other rural open space uses.

Open space zoning provides for grouping of dwellings onto a part of the parcel so that the remainder can be preserved as open space. The goal is to devise better use of undeveloped property than what results from proceeding on a lot-to-lot basis.

Conditional Zoning

Section 405 of the Michigan Zoning Enabling Act provides for conditional zoning whereby the Township may accept conditions with a rezoning request. Whereas previously a rezoning proposal was reviewed under the “worse case scenario” for potential land uses and the proposed use of the site was often overlooked, now promises regarding the proposed use can be enforced. Rezoning applicants may voluntarily offer conditions to their rezoning request and the Township may consider the conditions in deciding upon the request. Conditions to restrict density, increase setbacks, provide additional buffers, preserve certain areas or features, and limit the use of property may benefit land owners, adjacent property owners and the Township as a whole.

Development Agreements

Although there is no explicit legislative authority for such agreements, many Michigan communities have used development agreements to achieve a mutual understanding between the developer and Township concerning the conditions under which development can occur. Development agreements are often negotiated as part of a planned development approval, allowing the community and developer to address complex issues that cannot be adequately addressed on a typical site plan.

Public Facility Improvements

Capital Improvements Program

Under Section 65 of the Michigan Planning Enabling Act (Act 33 of 2008, as amended), the Planning Commission is charged with the responsibility of annually preparing a capital improvements program of public structures and improvements. The program shall cover improvements anticipated within the ensuing 6-year period.

Capital programming influences land development decisions. By properly coordinating utility extensions and other capital improvements with its planning and growth management program, the Township can control the direction and pace of development. Capital programming should be viewed as more than just a ministerial act. Using the Master Plan to delineate the location and type of development desired and the Capital Improvements Program to schedule the provision of services, the Township can inform developers when development of a particular parcel will be encouraged and the type of development that will be allowed.

New Hudson Post Office

The Township must seek input in the selection of a new site for the New Hudson Post Office, which must remain in New Hudson. Assistance from the Township’s U.S. Representative must be sought to secure a major role for the Township in planning for a new Post Office.