

# SPRING LAKE TOWNSHIP ZONING ORDINANCE

An ordinance to establish zoning districts and regulations governing the development and use of land within the unincorporated portions of Spring Lake Township, Ottawa County, Michigan, in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended; to provide for regulations governing nonconforming uses and structures; to provide for a board of appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this ordinance; and to provide for conflicts with other ordinances or regulations.

The Township of Spring Lake, Ottawa County, Michigan, Ordains:

## **ARTICLE ONE – ADMINISTRATION**

### **100 SHORT TITLE**

This ordinance shall be known and may be cited as the "Spring Lake Township Zoning Ordinance."

### **101 PURPOSE**

This Ordinance is based on the Spring Lake Township Community Master Plan and is designed to promote the public health, safety, morals and general welfare; to encourage the use of lands and natural resources in the Township in accordance with their character and adaptability; to limit the improper use of land; to provide for the orderly development of the Township; to reduce hazards to life and property; to establish the location, size of and the specific uses for which Buildings and Structures may hereafter be erected or altered, and the minimum open spaces, sanitary, safety and protective measures that shall be required for such Buildings and Structures; to lessen congestion on Streets; to provide safety in traffic and vehicular parking; to facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements; to conserve life, property and natural resources, and the expenditure of funds for public improvements and services; and to encourage the most advantageous use of land, resources and properties.

### **102 SCOPE AND INTERPRETATION**

This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private agreement, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes greater restriction, limitations, or requirements upon (1) the use of Buildings, Structures, or land, (2) the height of Buildings or structures, (3) Lot coverage, (4) Lot areas, (5) Yards or other open spaces or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of the Ordinance shall control.

### **103 LEGAL BASIS**

This Ordinance is enacted pursuant to Michigan Act 110 of 2006, as amended.

### **104 ADMINISTRATIVE LIABILITY**

No officer, agent, employee, or member of the Planning Commission, Township Board or Board of Appeals shall render himself 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 his duties and responsibilities pursuant to this Ordinance.

### **105 SEVERABILITY**

This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

**106 VESTED RIGHTS**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

**107 REPEAL**

The existing Spring Lake Township Zoning Ordinance, which became effective July 1, 1989, and any and all amendments thereto, is hereby repealed in its entirety. In addition, all other ordinances and parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance are repealed as of the effective date of this Ordinance.

**108 EFFECTIVE DATE**

This Ordinance was approved and adopted by the Township Board on XXX, and is ordered to take effect on XXX.

**109 AMENDMENTS**

**109.100 INITIATION OF AMENDMENTS**

Only the Township Board may amend this Ordinance. Proposals for the amendment of this Ordinance may be initiated by the Township Board on its own motion or by any interested person or persons by petition to the Township Board.

**109.101 AMENDMENT PETITION PROCESS**

All petitions for an amendment to this Ordinance shall be in writing, signed and filed in triplicate with the Township Clerk for presentation to the Township Board. Such petitions shall be accompanied by the required fee and shall include the following:

- (a) The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned;
- (b) The nature and effect of the proposed amendment;
- (c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present Zoning District of the land, the Zoning District of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned;
- (d) The alleged error in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same;

(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) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

#### **109.102 AMENDMENT PROCEDURE**

After initiation, amendments to this Ordinance shall be considered as provided in the Zoning Act.

### **110 CONDITIONAL REZONING**

It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with PA 110 of 2006, as amended by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

**A.** Any interested property owner may voluntarily offer in writing, and the Township may approve, certain uses and/or development of the land or other activities as a condition to a rezoning of the land, as set forth herein.

**B.** Application Procedure.

1. If the applicant wishes to submit an offer of conditions or restrictions along with a petition to rezone land, the applicant shall do so in writing. The offer of conditions or restrictions shall be received with the application to rezone the land.
2. The applicant may request a pre-application meeting, in which the Zoning Administrator and other Township officials may identify concerns reasonably related to the rezoning request. The Township shall not require the applicant to offer conditions or restrictions as a prerequisite for rezoning nor shall the presentation of an offer of conditions or restrictions create any obligation on the part of the Township to rezone any land.
3. The Township shall not add to, alter, or augment the offer of conditions or restrictions.
4. If an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Township time to consider the offer; and if an offer of conditions is proposed at a Township Board meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
5. The Planning Commission or Township Board may table a request to give residents of the Spring Lake Township more time to fully understand the offer of conditions.
6. The offer of conditions may not purport to authorize uses or developments not permitted in the requested zoning district.

7. The applicant's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
8. Any use or development proposed as part of an offer of conditions that requires a special use permit, variance, and/or site plan approval under the terms of this Ordinance shall also comply with such other applicable provisions or regulations.

C. Standards of Approval for Conditional Rezoning.

1. When reviewing a rezoning request and an offer of conditions, the Township may consider, but shall not be limited to; future land use recommendations in the 2008 Master Plan, as amended; the directions for community building in the 2008 Master Plan, as amended; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
2. Offers of conditions shall not be approved if such conditions violate or cause a violation of this Ordinance or other regulations or ordinances promulgated by, or applicable in, Spring Lake Township.
3. When considering an offer of conditions, the Township Board may determine whether the conditions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

D. Expiration of Agreement, Reversion and Extensions.

1. In approving the conditions, the Township Board may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, as set forth in subparagraph 4 hereof.
2. Neither the applicant nor the Township Board shall add to or alter the approved conditions during the time period specified in subparagraph 1.
3. The time period specified in subparagraph 1 may be extended upon the request of the applicant and with the approval of the Township Board.
  - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being sought.
  - b. Upon recommendation of the Planning Commission, the Township Board may extend the time period specified under subparagraph 1. In the event such request is approved, if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, as set forth in subparagraph 4.
4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the

land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall determine whether the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and shall recommend to the Township Board whether to rezone the land back to its former zoning classification. The Township Board shall make a decision as to the rezoning of the property.

**E. Coordination and Performance Bonds.**

1. Where proposed conditions involve public improvements, the applicant shall submit the following to the Township Board prior to final approval of the rezoning and offer of conditions:
  - a. Costs and obligations.
  - b. Responsible parties for obtaining permits.
  - c. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
  - d. The Township Board may require a performance bond or similar financial guarantee in a form approved by the Township Attorney, as part of the agreement or approval.
2. A construction schedule.

**F. Recording.**

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form acceptable to the Township Attorney and recordable with the Register of Deeds of Ottawa County in which the subject land is located.
  - b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successive owners of the land.
  - d. Incorporate, by attachment, any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions.
  - e. Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement

of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

**G. Amendment of Conditions.**

The Statement of Conditions may be amended thereafter in the same manner as was prescribed for in the original rezoning and statement of conditions.

**H. Failure to Offer Conditions.** The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**111 PUBLIC NOTICE**

All applications for development approval, amendments, variances or other deliberations requiring a public hearing under the terms of this Ordinance shall comply with the Michigan Zoning Enabling Act, as amended, and the other provisions of this Section with regard to public notification.

**A.** When the provisions of this Ordinance or the Michigan Zoning Enabling Act, as amended, require notice to be published, the Zoning Administrator shall cause such notice to be prepared and published in accordance therewith.

**B.** All such notices for public hearings shall include:

1. A description of the nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
2. An identification of the property that is the subject of the hearing.
3. An indication of when and where the request will be considered.
4. An indication of when and where written comments will be received concerning the request.

**C.** Unless otherwise provided in the Zoning Enabling Act, or this Ordinance, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned development, variance, appeal, or ordinance interpretation, shall be provided as follow:

1. Publication shall occur not less than fifteen (15), nor more than forty-five (45) days before the date the application or other matter will be considered.
2. Personal Notice by mail or delivery to the persons identified in subparagraph D, 1, 2 and 3, hereof shall occur not less than fifteen (15), nor more than forty-five (45) days before the date the application or other matter will be considered.

**D.** If the hearing involves a request for an interpretation of the Zoning Ordinance by the Zoning Board of Appeals, an appeal of an administrative decision by the Zoning Board of Appeals, or consideration of a zoning map change involving ten or fewer adjacent properties, in addition to publication of the notice as required, notice shall be provided by mail or personal delivery to:

1. The owner(s) of record of the property for which approval is being considered and/or to the person(s) requesting the interpretation or appealing the decision, as applicable; and;
  2. The owners of record of real property located within three hundred (300) feet of the property, regardless of whether the property is located within the Spring Lake Township; and
  3. The occupant(s) of all structures within three hundred (300) feet of the property, regardless of whether the occupant(s) are located within the Township. If the name of said occupant(s) is not known, the notice may be addressed to "occupant." If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, 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.
- E. Once the application has been set for public hearing, the applicant shall request from the Township a notification sign announcing the date, time, place, and manner of a public hearing. A sign shall be provided by the Township and posted by the Applicant along all street frontages of the subject site. The applicant shall install the notification sign(s) in a location not more than twenty (20) feet from any property line no fewer than seven (7) days prior to the public hearing.

## 112 ZONING BOARD OF APPEALS

### 112.100 CREATION

There is hereby created under the Zoning Act a Township Board of Appeals, referred to in this Ordinance as the "Board of Appeals". The Board of Appeals shall be constituted and appointed as provided in the Zoning Act and shall be comprised of five (5) members.

### 112.101 JURISDICTION AND POWERS

The Board of Appeals shall have all powers and jurisdiction granted by the Zoning Act, all powers and jurisdiction prescribed in other chapters of the Ordinance and the following specific powers and jurisdiction:

- (a) The jurisdiction and power to hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official or body charged with enforcement of this Ordinance, excluding, however, decisions regarding the authorization of Special Uses and planned unit developments which are made by the Building Inspector, Township Board or Planning Commission.
- (b) The jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this Ordinance, including interpretation of the Zoning Map and text of the Zoning Ordinance.
- (c) The jurisdiction and power to decide matters referred to the Board of Appeals for decision pursuant to Section 603 of the Zoning Act.

(d) The jurisdiction and power to authorize, upon appeal, a variance or modification of this Ordinance where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

#### **112.102 ADOPTION OF RULES AND REGULATIONS**

The Board of Appeals shall fix rules and regulations governing its procedures sitting as the Board of Appeals. Said rules and regulations shall be made available to the public and shall be in conformance with the terms of this Ordinance and the Zoning Act.

#### **112.103 CONDITIONS**

In granting a variance or in making any decision referred to it by this Ordinance, the Board of Appeals may impose and attach such conditions in conformance with the provisions of the Zoning Act as it shall determine are necessary and/or appropriate.

#### **112.104 BOARD OF APPEALS AUTHORIZATION**

Where Board of Appeals authorization is required by this Ordinance pursuant to the authority granted it by Section 603 of the Zoning Act or where a variance has been requested, the Board of Appeals may, in its discretion, require the preparation and filing of a site plan which is in accordance with the requirements of this Ordinance before application is made for a Building permit.

The Board of Appeals shall hold a public hearing concerning the project for which Board of Appeals authorization has been requested and give notice in the manner required by law. The Board of Appeals shall state the grounds of each decision and shall otherwise comply with all procedural, notice and other requirements of the Zoning Act.

An appeal to the Board of Appeals stays all proceedings in furtherance of the action appealed from; provided, however, that if the body or officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in such certification, a stay would in the opinion of the body or officer cause imminent peril to life or property, then such proceedings may be stayed only by a restraining order issued by the Board of Appeals or the circuit court.

#### **112.105 REHEARINGS BY BOARD OF APPEALS**

The Board of Appeals may, by majority vote of its total membership, grant a rehearing on any matter within its jurisdiction and upon which matter the Board of Appeals has already rendered a decision. Notice of such a rehearing shall be given as required by law for the original hearing. After such a rehearing, the Board of Appeals may re-decide any such matter; in that event, the re-decision rather than the prior decision shall be controlling.

**112.106 ALTERNATE MEMBERS**

(a) The Township Board shall appoint not more than two (2) alternate members to serve the same term as regular members of the Board of Appeals. The alternate members shall be appointed by resolution of the Township Board.

(1) An alternate member shall be called to serve as a regular member of the Board of Appeals in the absence of a regular member if that regular member is absent from or will be unable to attend one (1) or more meetings of the Board of Appeals.

(2) An alternate member shall be called to serve as a regular member of the Board of Appeals for the purpose of reaching a decision on a case in which the regular member has abstained from participating for reasons of a conflict of interest.

(b) An alternate member called to serve as a regular member shall have the same voting rights as a regular member of the Board of Appeals. An alternate member called to serve on a Board of Appeals case shall serve in that case until a final decision is made by the Board of Appeals.

(c) A regular member of the Board of Appeals who is subject to being replaced by an alternate member for any of the reasons described in subsection (a) above shall advise the Zoning Administrator as soon as possible. The Zoning Administrator shall then designate an alternate member to serve on the Board of Appeals in place of the regular member, according to any procedure established by the Township Board.

(d) Alternate members of the Board of Appeals shall be requested to attend meetings of the Board of Appeals on a regular basis (i.e., as if they were regular members), and they shall be compensated for such attendance as if they were regular members.

(e) If the Township Board appoints two (2) alternate members of the Board of Appeals, the Township Board shall also designate the priority by which the two (2) alternate members shall be called (e.g., alphabetical order, order of appointment, alternating months, etc.), subject to the requirement in subsection (b) that an alternate member who begins to serve in a case shall continue with that case until a final decision is made by the Board of Appeals.

**112.107 STANDARDS FOR VARIANCES**

The Board of Appeals may grant a dimension variance or a use variance from the provisions or requirements of this Ordinance, only if the Board of Appeals finds from reasonable evidence that all of the applicable facts and conditions exist.

(a) For a dimension variance, the Board of Appeals must find that all of the following facts and conditions exist.

(1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

(3) The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

(4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.

(5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

(6) That the enforcement of the literal requirements of this Ordinance would involve practical difficulties.

(b) For a use variance, two-thirds of the members of the Board of Appeals must find that all of the following facts and conditions exist.

(1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

(3) The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

(4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.

(5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

(6) The property in question cannot be reasonably used as zoned and therefore a use variance is necessary.

(7) That the enforcement of the literal requirements of this Ordinance would involve unnecessary hardship.

#### **112.108 TIME LIMITATIONS ON VARIANCES**

Any variance granted under the provisions of this Ordinance shall become null and void unless the construction or other work authorized by a variance shall be completed not later than one year after the granting of the variance and is being carried forward to completion or occupancy of land, premises or buildings.

#### **112.109 APPEALS AND OTHER APPLICATIONS FOR RELIEF**

(a) An appeal from an order, decision or determination by the Zoning Administrator or other person authorized to enforce or administer this Ordinance may be taken by any person aggrieved by such order, decision or determination.

(b) An application for an appeal, a variance or other authorized relief shall be accompanied by payment of the required application fee.

(c) An application or appeal shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.

(d) An applicant seeking relief within the jurisdiction of the Board of Appeals shall apply for such relief by means of an application form provided by the Township, together with a scaled drawing with sufficient detail to indicate the nature and necessity of the request, and shall pay the required application fee and deposit any required sum into a Township escrow account for the purpose of any required reimbursement of Township expenses incurred in the consideration of the application.

(e) After an application for an appeal, a variance or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the Zoning Administrator shall forward to the Board of Appeals the application or notice of appeal and other materials comprising the record of the matter from which the application or appeal is taken. The Zoning Administrator shall schedule the application or appeal for a public meeting or, if required, for a public hearing, within a reasonable time. Any required notice of hearing shall be given in accordance with this Ordinance.

## 112.110 DECISIONS OF THE BOARD OF APPEALS

(a) The Board of Appeals shall decide all applications and appeals within a reasonable time.

(b) The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be deemed to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.

(c) The affirmative vote of a majority of the members of the Board of Appeals shall be required to reverse or affirm the order, decision or determination that is being appealed, or to grant a variance from any provision of this Ordinance; provided, however, that a use variance shall not be granted unless approved by an affirmative vote of at least a two-thirds majority of the members of the Board of Appeals.

(d) In cases of alleged practical difficulties or unnecessary hardship, the Board shall, if relief is warranted, grant only such relief as is necessary to relieve the practical difficulties or unnecessary hardship. Such decision shall be binding upon the Zoning Administrator, or other Township officials having authority in the circumstances. The Township building official shall incorporate the terms and conditions of the Board of Appeals' decision in any permit issued to the applicant pursuant to the decision.

(e) A decision of the Board of Appeals on an appeal from a Township officer or body shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court, within the time, to the extent and in the manner permitted by law.

(f) No application which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first decided by the Board.

(g) The members of the Board of Appeals who are members of the Township Board and of the Planning Commission, respectively, shall not participate in or vote on matters that the members previously voted on in their respective capacities as Township Board member or Planning Commission member.

## 110.111 OFFICERS

(a) The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary.

(1) The chairperson shall preside at meetings of the Board; the vice-chairperson shall preside in the absence of the chairperson.

(2) The secretary shall prepare and sign the minutes of each Board meeting; provided, however, that minutes may be taken by a recording secretary, but the minutes as approved by the Board shall be signed by the secretary.

(b) The Board of Appeals member who is a Township Board member may not serve as chairperson of the Board of Appeals.

(c) An officer of the Board of Appeals shall have a term of one year and until the officer's successor is elected and qualifies. An officer may be reelected.

(d) An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board, but an alternate member who is called upon to serve as a member of the Board in the absence of a regular member who is an officer of the Board may, while serving, carry out the duties of the officer in whose absence the alternate member is serving.

#### **110.112 MEETINGS AND PROCEDURES**

(a) The Board of Appeals shall adopt bylaws and rules of procedure for the conduct of its meetings and related purposes.

(b) The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate member serving in the absence of a regular member.

(c) At the first meeting of each calendar year, the Board of Appeals shall adopt a schedule of regular meetings; provided, however, that a meeting need not be held if pending matters do not warrant a meeting.

(d) The Board of Appeals may convene special meetings at such times as it shall determine.

(e) The Board of Appeals shall conduct a public hearing on an appeal of an administrative order, decision or determination, or on an application for an interpretation of this Ordinance or the Zoning Map.

(1) Notice of the public hearing shall be given by one publication of a notice of hearing in a newspaper of general circulation in the Township, at least 15 days before the date of hearing.

(2) Notice of the public hearing shall also be given by personal delivery or by U.S. mail to the owner of property that is the subject of the application and to all persons to whom real property is assessed within 300 feet of the subject property; provided, however, that if the application does not involve a specific parcel of property, notice need be given only to the person making the application, in the manner stated above, and by publication in the manner stated in subparagraph (a).

(3) Notice of the public hearing, and the extent manner of providing such notice, shall also comply with Section 111.

(f) The Board of Appeals shall keep minutes of its proceedings, showing the actions of the Board.

#### **110.113 REMOVAL OF MEMBERS; CONFLICTS OF INTEREST**

(a) A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.

(b) A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

#### **110.114 APPEALS FROM DECISIONS OF THE BOARD OF APPEALS**

(a) Any party aggrieved by a decision of the Board of Appeals may appeal to the circuit court. As provided by law, the circuit court shall review the record in the case and the decision of the Board of Appeals for the purpose of ensuring that the decision complies with all of the following requirements:

- (1) That it complies with the Constitution and laws of the state.
- (2) That it is based upon proper procedures.
- (3) That it is supported by competent, material and substantial evidence on the record of the Board of Appeals.
- (4) That it represents the reasonable exercise of discretion as granted by law to the Board of Appeals.

(b) If, as provided by law, the circuit court finds the record inadequate to accomplish the required review, or if the court determines that additional material exists that with good reason was not presented, the circuit court is authorized by law to order further Township proceedings in the matter. In such further proceedings, the Board of Appeals may modify its findings and decision as a result of the additional proceedings, or the Board may affirm its original decision. The record and decision in such further proceedings shall be filed with the circuit court. As provided by law, the court may affirm, reverse or modify the decision of the Board of Appeals.

(c) An appeal from a decision of the Board of Appeals shall be filed within 30 days after the Board of Appeals issues its decision in writing signed by the chairperson, if there is then a chairperson, or signed by another member of the Board of Appeals, if there is then no chairperson, or within 21 days after the Board of Appeals approves the minutes of the meeting at which its decision was taken.

### 113 PLANNING COMMISSION

**A.** The Spring Lake Township Planning Commission previously established is hereby continued as the Planning Commission and shall be composed of not less than five (5) nor more than nine (9) members pursuant to the provisions of the Act 33 of 2008, as amended (hereinafter referred to as the "Municipal Planning Act"). The members of the Planning Commission duly holding office at the time of the adoption of this Ordinance shall remain in office through the completion of their terms of office.

**B.** The Township Planning Commission may adopt rules, bylaws and regulations to govern its activities under the terms of this Ordinance. Such rules, bylaws and regulations may be in the Township Code or as policy statements or resolutions on file with the Township Clerk.

**114 ZONING ADMINISTRATION**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or the Zoning Administrator's designee.

**115 ZONING ADMINISTRATOR**

The Zoning Administrator shall be appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine. The person serving as Zoning Administrator shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility or device entering into or used in connection with Building construction. ~~In the balance of this Ordinance, after the effective date of Ordinance No. 178, the term "Zoning Administrator" shall be replaced with the term "Zoning Administrator."~~

**116 PERMITS**

(a) Permit Required - No Building or Structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered unless a permit has been issued by the Zoning Administrator. Permits shall not be required for redecorating, repainting, re-roofing or ordinary repairs. An application for a permit shall be in writing and upon duplicate printed forms furnished by the Township. A permit issued by the Zoning Administrator is nontransferable and must be obtained before any work, excavation, erection, alteration or movement is commenced. Satisfactory evidence of ownership of the Lot or premises may be required by the Zoning Administrator and shall be furnished upon request. If the application is approved, the Zoning Administrator shall so mark both copies of the application over the Zoning Administrator's signature and return the other copy to the applicant.

(b) Contents of Application - Each application shall include such reasonable information as may be requested by the Zoning Administrator in order to determine compliance with the terms and provisions of this Ordinance and shall include, as a minimum, the following information:

- (1) The location and actual dimensions of the Lot or premises to which the permit is to apply;
- (2) The kind of Buildings or Structures to which the permit is to apply;
- (3) The width of all abutting Streets;
- (4) The area, size and location of all Buildings or Structures to which the permit is to apply;
- (5) The type of use to be made of the Building or Structure to which the permit is to apply;
- (6) The use of Buildings or Structures on adjoining lands; and
- (7) The estimated cost of the Building or Structure.

(c) Accessory Buildings or Structures - Accessory Buildings or Structures, when erected, moved, placed, reconstructed, extended, enlarged or altered, at the same time as the principal Building on the same Lot or premises and when shown on the application for the permit for the principal Building, shall not require the issuance of a separate permit. A separate permit shall be required if any Accessory Building or Structure is erected, moved, placed, reconstructed, extended, enlarged or altered separately or at a different time than the principal Building on the same Lot or premises.

(d) Issuance of Permit - Within ten (10) days after the receipt of any application, the Building Inspector shall either (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance, or (2) deny issuance of a permit and state the reason(s) for such denial in writing. In each case the permit or the written reason(s) for denial shall be transmitted to the applicant or the applicant's agent.

(e) Expiration of Permits - A permit for any Building or Structure, including a Single-Family Dwelling, for which all construction work has not been completed within two (2) years from the date of its issuance shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable once for an additional term of one (1) year on payment of an additional fee for such renewal. If the work is still not completed after the third year, the permit may not be renewed again unless authorized by the Board of Appeals as a matter for Board of Appeals decision pursuant to Section 603 of the Zoning Act. In deciding whether or not to grant the authorization, the Board of Appeals shall consider the following standards:

- (1) The degree to which the work has been completed;
- (2) The progress made toward completing the work during the past year;
- (3) The amount of time which would be needed to complete the work;
- (4) The visibility of the unfinished work from the adjoining property and/or the surrounding neighborhood;
- (5) The degree of danger created for children or other individuals by the uncompleted work; and
- (6) The viability of finishing all exterior work first to remove any offensive view and/or unnecessary danger as soon as reasonably possible.

(f) Cancellation of Permits - The Zoning Administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false statements or misrepresentations in the application for the permit.

Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit.

(g) Fees - The Township Board shall periodically establish by resolution a zoning fee schedule, which shall satisfy those fees applicable to all permits, certificates, approvals or applications required by this Ordinance. All fees shall be paid to the Building Inspector, who shall promptly remit the same to the Township Treasurer. The fee schedule shall be posted on public display in the Township Hall and may be changed only by resolution of the Township Board. No permit, certificate, approval or application shall be issued or considered unless and until such fees have been paid in full and payment of the required fee shall be a condition precedent to the validity of any permit, certificate or approval.

The amount of the fees for permits shall be determined from the estimated cost of the Building or Structure as set forth in the application for the permit. If upon completion of the Building or Structure the Zoning Administrator shall determine that the estimated cost does not represent a fair valuation of the cost of the Building or Structure, the Zoning Administrator shall notify the applicant in writing of the permit fee deficiency and the Building or Structure shall not be used until such deficiency has been paid to the Zoning Administrator.

#### 117 CERTIFICATION OF COMPLIANCE

No Building or Structure which is erected, moved, placed, reconstructed, extended, enlarged or altered shall be used in whole or in part until the owner has been issued a certificate by the Zoning Administrator affirming that such Building or Structure conforms in all respects to the provisions of this Ordinance. Such certificate shall be issued after the work is complete and final inspection has been made.

#### 118 STOP WORK OR STOP USE ORDER

In addition to any other rights or remedies the Township may have pursuant to this article or other applicable law, upon finding the existence of any one of the conditions listed in paragraph 1 of this section, the Zoning Administrator shall be empowered to issue stop work or stop use orders as defined herein and in accord with the terms of this section and may order a stoppage of work or a cessation of a land use.

1. A stop work or stop use order will be issued when:
  - a. An imminent threat to the public health, safety or welfare exists
  - b. Work is being done or has been done without a permit
  - c. Work is being done beyond the scope of the issued permit
  - d. Work being done does not match approved plans
  - e. The Zoning Administrator finds evidence of a violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.

- f. The Zoning Administrator finds evidence of a Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.
- g. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
- h. A Permittee's fails to pay any fees required by this article and/or any other applicable ordinances, codes, statutes or laws.
- i. The Zoning Administrator finds evidence a Permittee is causing, allowing and/or maintaining a nuisance as determined by the Township.

2. Procedure.

In the event a stop work or stop use order is issued, the Zoning Administrator shall do the following:

- a. Mail or deliver a written notice of the stop work order to the permittee at the last address furnished to the Township by permittee, as well as the location of the site which is in violation. Notice shall include:
  - 1) Detailed description of the nature of the violation and required actions to remedy the violation.
  - 2) Date and time of recorded violation.
  - 3) A statement informing the permittee that an appeal to the stop work order may be filed and a hearing with the Zoning Board of Appeals on the matter may be requested, at which time the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.
- b. A hearing shall be scheduled no sooner than ten (10) days after a request is received by the Township from the permittee.
- c. At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.
- d. Following the hearing, the Zoning Board of Appeals shall make a decision to continue, modify or dissolve a stop work order and/or revoke a permit, as applicable. In the event the Zoning Board of Appeals decides to revoke a permit or to continue or modify a stop work use order, the Zoning Board of Appeals Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

**119 VIOLATIONS NUISANCE PER SE**

Uses of land, dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed, or converted in violation of any provision of this Ordinance or regulations adopted under the authority of this Ordinance, are hereby declared to be a nuisance per se.

**120 PENALTIES**

**120.100 PENALTIES**

Any Buildings or Structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, or any use of a Lot or land which is begun, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se. Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement thereof shall be responsible for a municipal civil infraction. A person who commits a civil infraction shall be issued a notice advising the person of the violation and granting the person a fourteen (14) day period to remedy said violation. If the violation is not remedied with fourteen (14) days, the person shall be subject to a fine of \$50.00, plus costs and other sanctions for each infraction. Each day during which any violation of this Ordinance continues shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this Ordinance; a repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any twelve (12) month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for repeat violations shall be \$100.00, plus costs and other sanctions.

**120.101 PROCEDURE**

The Township Board and/or Township Supervisor may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

**121 AUTHORIZED TOWNSHIP OFFICIAL**

The Zoning Administrator or the Zoning Administrator's designee is designated as the authorized Township official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the Spring Lake Township Municipal Ordinance Violations Bureau) as provided by this Ordinance.

**122 REDUCTION OR ELIMINATION OF WARNING PERIOD**

The Zoning Administrator or the Zoning Administrator's designee shall have the authority to determine, in the discretion of the Zoning Administrator or the Zoning Administrator's designee, that immediate enforcement of this Ordinance is required and that the fourteen (14) day period to remedy a violation of this Ordinance, discussed in Section 21.1, is not in the Township's best interests. In that event, either a shorter warning period shall be allowed or the person who commits a civil infraction shall immediately be subject to a fine of \$50.00, plus costs and other

sanctions for each violation of this Ordinance (or subject to the increased civil fines for a repeat violation of this Ordinance).



