

**HEATH TOWNSHIP ORDINANCE NO. 36**

**AMENDMENT TO HEATH TOWNSHIP ZONING ORDINANCE**

Adopted: May 8, 1995

Effective: May 22, 1995

An Ordinance to amend the Heath Township Zoning Ordinance to establish regulations applicable to a Multiple Principal Buildings Development; to provide for definitions; to provide a description and purpose of the Multiple Principal Buildings Development; to establish the minimum requirements for the approval of a Multiple Principal Buildings Development; to establish the general conditions and requirements applicable to all Multiple Principal Buildings Developments; to establish the application process for a Multiple Principal Buildings Development; to establish the review process for a Multiple Principal Buildings Development application; to establish the standards for approval of a preliminary development plan of a Multiple Principal Buildings Development; to authorize the Heath Township Planning Commission to use the services of consultants when reviewing a Multiple Principal Buildings Development application; to establish an application fee for a Multiple Principal Buildings Development; to authorize the Planning Commission to require that the developer of a Multiple Principal Buildings Development post a performance bond to guarantee the construction of certain portions of the development; to establish time limits on the development of a Multiple Principal Buildings Development after the Planning Commission has approved the Multiple Principal Buildings Development; to authorize the Planning Commission to require certain improvements contained in the Multiple Principal Buildings Development to be constructed before the issuance of any occupancy permits; to authorize the Planning Commission to require that a Multiple Principal Buildings Development comply with the provisions of the Subdivision Control Act of 1967, as amended, by the State of Michigan; to establish a procedure for appeals from the Planning Commission's determination of a Multiple Principal Buildings Development application; to provide for the severability of any part of said ordinance; and to establish an effective date and to repeal all other ordinances and parts of ordinances and parts of ordinances in conflict herewith.

**THE TOWNSHIP OF HEATH  
ALLEGAN COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I**

**AMENDMENT TO TOWNSHIP ZONING ORDINANCE**

The Heath Township Zoning Ordinance shall be amended to include an additional Chapter designated as Chapter XIa and entitled "REGULATIONS APPLICABLE TO A MULTIPLE PRINCIPAL BUILDINGS DEVELOPMENT", to read as follows:

**CHAPTER XIa**

**REGULATIONS APPLICABLE TO A MULTIPLE**

## **PRINCIPAL BUILDINGS DEVELOPMENT**

### **SECTION 11a.1     DEFINITIONS**

- (a)     BUILDING SITE: Means a specific land area within a multiple principal buildings development intended for the placement of a principal residential building and the adjacent land reserved for the exclusive use of the occupant(s) of the principal residential building.
- (b)     COMMON ELEMENTS: When used in this Ordinance will have the meaning given to that phrase in the Michigan Condominium Act PA 1978, No. 59, as amended.
- (c)     LIMITED COMMON ELEMENTS: When used in this Ordinance will have the meaning given to that phrase in the Michigan Condominium Act PA 1978, No. 59, as amended.
- (d)     MULTIPLE PRINCIPAL BUILDING DEVELOPMENT (MPBD): Means a development or project in which more than one principal residential building is situated on a lot in a R-1 or R-2 Residence District.

### **SECTION 11a.2     DESCRIPTION AND PURPOSE**

- (a)     The, use, area, height, bulk and placement regulations of this Ordinance for the R-1 and R-2 Residence Districts are primarily applicable to the placement of one (1) principal residential building on a lot. In certain large developments, these requirements might result in situations less in the interest of public health, safety and welfare than if a controlled degree of flexibility were allowed. The MPBD is intended to permit and control the development of preplanned areas for various compatible uses allowed by the Township Zoning Ordinance.
- (b)     It is intended that uses in a MPBD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a MPBD.
- (c)     When determining whether to approve a MPBD the Planning Commission shall review a proposed MPBD and shall apply the specific requirements and procedures of this Ordinance and shall give due consideration to the maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, fire or explosion hazard, liquid or solid waste disposal, vibrations, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, fire and police protection, drainage, lighting influence, affects on property values, light and air infringements, overcrowding of persons, sanitation, general appearance of the area, surface and ground water quality and other similar considerations having an affect on public health, safety and general welfare of the people of the surrounding area.

### **SECTION 11a.3     MPBD APPROVAL**

No MPBD shall be permitted in the R-1 or R-2 Residence District unless the MPBD is approved as a special exception land use by the Planning Commission in compliance with the provisions of this Chapter of the Zoning Ordinance.

**SECTION 11a.4      GENERAL CONDITIONS AND REQUIREMENTS APPLICABLE TO ALL MPBDS**

Each MPBD shall meet the following conditions to qualify for consideration as a special exception land use:

- (a) The MPBD site must be at least ten (10) acres in area; shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit.
- (b) The total number of principal residential buildings and building sites shall be no greater than if the proposed MPBD site were developed with the lot area requirements of the particular zoning district in which the proposed MPBD is located.
- (c) Each building site within the MPBD must comply with lot area, lot width and road frontage requirements for a lot in the particular Zoning District in which the proposed MPBD is located.
- (d) Each principal residential building within the MPBD must comply with the building size, building area, building height, and building setbacks for principal structures in the particular Zoning District in which the proposed MPBD is located.

**SECTION 11a.5      MPBD APPLICATION PROCESS; PRELIMINARY DEVELOPMENT PLAN, APPLICATION FEE**

Any person who desires to secure a special exception use permit for a MPBD must submit ten copies of a Preliminary Development Plan to the Township Clerk, along with the application fee as specified in Section 11a.10 of this Ordinance. The Preliminary Development Plan must contain the following data:

- (a) The name and address of the applicant(s).
- (b) The name and address of the owner of the subject property if the owner is not the applicant. Further, if the owner of the subject property is not the applicant, the owner of the subject property must acknowledge in writing, in the application, that the owner is aware of, and approves of, the application.
- (c) A legal description of the subject property.
- (d) The total area of the subject property in acres.

- (e) The present zoning classification of the subject property.
- (f) A vicinity map showing the location of the subject property along with all streets and land uses located within one half (1/2) mile of the subject property.
- (g) A site plan drawn to a scale not greater than one inch equals twenty feet, but not less than one inch equals two hundred feet which includes the following information:
  - 1. It shall show an appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual or firm preparing the plan.
  - 2. It shall identify the subject property by lot lines and location, including dimensions, angles and size, correlated with the legal description.
  - 3. It shall show the topography, at not less than two-foot contour intervals and all natural features, including wood lots, streams, rivers, lakes, drains, wetlands, natural drainage channels, unstable soils and similar features.
  - 4. It shall show existing man-made features on and within one hundred feet of the site, such as buildings, structures, high tension towers, pipelines, existing utilities (including water and sewer lines), excavations, bridges, culverts, drains and easements.
  - 5. It shall show the location, proposed finished floor, grade line elevations and size of proposed main and accessory buildings, their relation to one another and to all existing structures on the site, the height of all buildings and square footage of floor space.
  - 6. It shall identify the location of proposed building sites, including dimensions, angles and size.
  - 7. It shall identify the location of common elements and limited common elements, if any, including dimensions, angles and size thereof.
  - 8. It shall show the proposed streets, driveways sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site.
  - 9. It shall show the proposed location, use and size of open spaces and the location of any landscaping, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated.
- (h) A narrative description of the project including:
  - 1. The overall objectives of the MPBD.

2. Whether the MPBD will be developed in stages.
3. Source and financing of the MPBD and a statement of the total estimated development costs of each stage.
4. Number of acres allocated to each proposed use.
5. Gross area and building, parking, public or private drives or streets and necessary yards and density.
6. Proposed method of providing sewer and water service as well as other public and private utilities.
7. Proposed method of providing storm drainage.

**SECTION 11a.6 MPBD APPLICATION PROCESS; REVIEW, PUBLIC HEARING**

- (a) Upon receipt of a complete Preliminary Development Plan , the Chairman of the Planning Commission, or the Township Clerk, shall distribute copies of the Preliminary Development Plan to each member of the Planning Commission, the Township Clerk, and the Zoning Administrator. At least one copy of the Preliminary Development Plan shall remain on file in the Township Hall and shall be available to interested persons for their review.
- (b) Upon receipt of a completed Preliminary Development Plan, the Chairman of the Planning Commission shall schedule a public hearing on the MPBD application/Preliminary Development Plan.
- (c) Notice of the public hearing shall be published within a newspaper of general circulation within the Township at least once before the public hearing occurs. The publication must occur not less than 5 days but not more than 15 days before the public hearing. An additional Notice shall be sent by mail, or by personal delivery, to all owners of property to whom real property is assessed and to all occupants of all structures within three hundred feet of the boundary of the property that is the subject of the application and to the applicant.
- (d) The Notice shall include the following:
  1. Describe the nature of the MPBD Application.
  2. Indicate the property which is the subject of the special exception land use request.
  3. State when and where the MPBD Application will be considered.
  4. State when and where written and oral comments will be received concerning the MPBD Application.

**SECTION 11a.7 MPBD APPLICATION PROCESS; STANDARDS FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN**

Within a reasonable time after the conclusion of the public hearing required by Section 11a.6 of this Ordinance, the Planning Commission shall either approve or disapprove of the Preliminary Development Plan. When determining whether to approve or disapprove a Preliminary Development Plan, the Planning Commission shall endeavor to insure the following:

- (a) That the Preliminary Development Plan is consistent with all regulations of this Ordinance and contains all information required by this Ordinance.
- (b) That the Preliminary Development Plan provides for the proper development of roads, easements and public utilities to protect the general health, safety and welfare of the Township, including the following:
  - 1. All roads, streets, drives and parking areas to be surfaced with bituminous or concrete paving or equivalent.
  - 2. Roads and streets serving more than one structure shall be equal to County Road Commission standards of construction and drainage.
  - 3. All roads, streets, drives and parking areas shall provide for disposal of surface water into the ground, into an improved leaching basin, or into a public sewer.
  - 4. Roads, streets and parking areas shall be provided with artificial lighting, automatically timed, and providing a minimum of one watt per twenty square feet of road or parking surface, with all light sources shielded from adjacent residential windows.
  - 5. That the proposed MPBD is not isolated from, or does not isolate, other lands from existing public streets, unless suitable access is provided.
- (c) That there is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas so as to insure the safety and convenience of pedestrian and vehicular traffic.
- (d) That adverse affects resulting from the locations of buildings and accessory structures will be minimized to the occupants of the subject parcel and the occupants of adjacent properties.
- (e) That the proposed MPBD will not have a harmful effect on the surrounding neighborhood development. Provisions for fencing, walls and landscaping devices may be required to provide screening from adjacent land.
- (f) That the proposed MPBD is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment and the capacities of public services and facilities affected by the proposed use.

- (g) That the proposed MPBD does not adversely affect the general plan for physical development of the Township of Heath as embodied in this Ordinance and in any master plan or portion thereof adopted by the Township of Heath.
- (h) That the proposed MPBD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties for the general neighborhood.

**SECTION 11a.8      MPBD APPLICATION PROCESS; PRELIMINARY DEVELOPMENT PLAN, APPROVAL/DISAPPROVAL**

After review, the Planning Commission shall either approve or disapprove the Preliminary Development Plan. On approval of the Preliminary Development Plan, the Preliminary Development Plan shall become the Final Development Plan as approved and the applicant shall file with the Planning Commission four copies of the Final Development Plan as approved. Within ten days thereafter, the Township Clerk of the Planning Commission shall transmit to the Township Building Department two copies of the Final Development Plan as approved, with the Township Clerk's Certificate thereon stating the date of approval. The Township Clerk shall transmit to the Township Zoning Administrator one copy of the Final Development Plan as approved, with the Township Clerk's Certificate thereon stating the date of approval. If the Preliminary Development Plan is disapproved, the Board shall state the reasons for the disapproval in writing and transmit the denial to the applicant within ten days of the date of the denial.

The Planning Commission is hereby given the discretion and authority to impose reasonable conditions as a condition of approval of any Preliminary Development Plan. The conditions may include conditions necessary 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, to protect the natural environment and to conserve natural resources and energy, to insure compatibility of adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Any condition imposed shall meet all of 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 MPBD under consideration, residents and land owners immediately adjacent to the proposed development or activity, and the community as a whole.
- (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed MPBD.
- (c) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the MPBD and be necessary to insure compliance with those standards.

**SECTION 11a.9      MPBD APPLICATION PROCESS; PLANNING COMMISSION AUTHORIZED TO USE CONSULTANTS**

When reviewing a Preliminary Development Plan, the Planning Commission is authorized to seek the assistance of architects, attorneys, engineers, land use planners and other similar professionals in determining if the Preliminary Development Plan meets the requirements of this Ordinance.

**SECTION 11a.10      MPBD APPLICATION PROCESS; APPLICATION FEE**

- (a) The application fee for a MPBD special exception use permit will be the actual costs the Township incurs in processing the MPBD application.
- (b) A deposit of seven hundred and fifty dollars (\$750.00), in the form of a certified bank check or money order, shall be paid at the time of filing the application for an MPBD, and before the Township initiates any action on the MPBD application. Notwithstanding the foregoing, if it becomes apparent in the course of processing an MPBD application that the actual costs of same are likely to exceed the amount of the deposit originally submitted to the Township, the Planning Commission may require an additional deposit(s) in an appropriate amount before the Township proceeds further with the processing of the MPBD application. The amount of the deposit(s) shall be deposited in the general fund of the Township or such other account as the Township Treasurer shall determine consistent with appropriate accounting practices.
- (c) Within sixty (60) days after the MPBD request has been concluded, either by approval of the Planning Commission; disapproval by the Planning Commission; or withdrawal of the application; the Township shall render an accounting of the actual costs in the matter to the applicant, and shall include with said accounting either a check for the difference between said actual costs and the deposit(s) if the deposit(s) exceeded the actual costs, or a bill for the remaining amount due to the Township if the actual costs exceeded the deposit(s). Any such remaining amount due to the Township shall be paid within thirty (30) days of the billing date. An accounting shall also be rendered, upon the request of the applicant, when the Township requires an additional deposit(s) as provided for in Section 11a.10(b) of this Ordinance.
- (d) It is understood by all Township officials and applicants for a MPBD that the payment of the application fee is intended to cover the Township's costs associated with the preparation and/or processing of an MPBD application, and should not in any manner be construed as guaranteeing or suggesting any particular outcome to the MPBD application process.

**SECTION 11a.11      PERFORMANCE BOND**

The Planning Commission, when approving a Preliminary Development Plan, may require reasonable undertakings by the applicant to guarantee and assure that those features and actions associated with a MPBD which the Planning Commission considers necessary to protect natural resources, or the health, safety and welfare of the residents of Heath Township and future users or



inhabitants of the MPBD including roadways, lighting, utilities, sidewalks, screening, and drainage, will be executed in accordance with the approved Final Development Plan. In this regard, the Planning Commission may, in its discretion, require a performance bond, letter of credit, or a certified check to be filed with the Township Clerk prior to issuance of any building permits for the MPBD. The amount of the performance bond, letter of credit, or certified check shall be a percentage of the total development costs, or the costs of a particular stage or phase of development, as the Planning Commission may deem appropriate under the circumstance of the particular MPBD. The Planning Commission shall consider the following factors in determining the necessity and amount of a performance bond, letter of credit, or certified check:

- (a) The size, nature and scale of the proposed development;
- (b) The extent to which construction will involve and/or effect municipal services, including sewer and water;
- (c) The possible impact upon the Township, its residents and surrounding property owners, should construction of the project not be completed in accordance with the Final Development Plan;
- (d) The total cost of the development, or a particular phase of the development which might be subject to the bonding requirement;
- (e) Such other factors as might be relevant in determining the potential costs or expenses of the Township should the developer fail to comply with the Final Development Plan; and
- (f) If the development is not constructed or carried out in accordance with the Final Development Plan, the aforementioned performance bond or letter of credit or certified check shall be forfeited to the Township which may use the proceeds therefrom to render the property to be in a safe and healthy condition, and for the further enforcement and administration of this Ordinance. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor/applicant and verified by the Zoning Administrator.
- (g) If the development is constructed or carried out in conformance with the Final Development Plan, as attested to by the applicant and verified by the Zoning Administrator, the Township shall return the performance bond, letter of credit, or certified check to the applicant.

**SECTION 11a.12 TIME LIMITATIONS ON DEVELOPMENT**

Each MPBD shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said development does not fulfill this provision, the Planning Commission may grant three (3) one hundred and twenty (120) day extensions provided the developer(s) present reasonable evidence to the effect that the MPBD has encountered unforeseen

difficulties but is now ready to proceed. Should the aforementioned provisions not be fulfilled, any building permit shall be invalid and void, and the special exception land use shall cease to exist.

**SECTION 11a.13 REQUIRED IMPROVEMENTS PRIOR TO ISSUANCE OF OCCUPANCY PERMIT**

The Planning Commission is hereby empowered to stipulate that all required improvements be constructed and completed prior to the issuance of any occupancy permit(s) for structures located within the MPBD. In the event that said improvements are partially completed to the point that occupancy would not impair the health, safety and general welfare of the residents, but are not fully completed, the Planning Commission may, upon the recommendation of the Building Inspector, approve an occupancy permit so long as the developer deposits a performance bond with the Township Clerk in an amount equal to the costs of improvements yet to be made, said improvements to be completed within one (1) year of the date of the issuance of the occupancy permit. In the event that the provisions herein are not complied with, the bond shall be forfeited and shall be used by the Township to construct the required improvements yet to be made, and/or for the enforcement of this Ordinance.

**SECTION 11a.14 PLAT RECORDING**

The Planning Commission is specifically authorized to require the recording of a plat in connection with any MPBD application when such recording would be required by the Subdivision Control Act of 1967, as amended, by the State of Michigan.

**SECTION 11a.15 APPEALS**

Notwithstanding any other provisions of this Ordinance to the contrary, any order, requirement, decision or determination made in regard to, or in the process of, a MPBD application shall be appealable to the Zoning Board of Appeals.

**SECTION II**

**SEVERABILITY**

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the parts so declared to be invalid.

**SECTION III**

**EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES**

This Ordinance shall take effect on the date of publication following adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**HEATH TOWNSHIP**  
Sheila Meiste, Clerk  
3331 48th Street  
Hamilton, Michigan 49419