

ORDINANCE NO. 17-005

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND SECTION 3.23 – BUILDING HEIGHT, SECTION 3.24 – BICYCLE PATHS (ALSO NON-MOTORIZED PATHWAYS), SECTION 7.4D – HEIGHT REQUIREMENTS, SECTION 8.4D – HEIGHT REQUIREMENTS, SECTION 9.5D – HEIGHT REQUIREMENTS, SECTION 10.4E – MAXIMUM BUILDING AND STRUCTURE HEIGHT, SECTION 12.4D – MAXIMUM BUILDING AND STRUCTURE HEIGHT, SECTION 13.5D – MAXIMUM BUILDING AND STRUCTURE HEIGHT, SECTION 14.5C – MAXIMUM BUILDING AND STRUCTURE HEIGHT, SECTION 19.8 – OPTIONAL PUBLIC HEARING AND SECTION 19.16 – BICYCLE PATHS OF THE JAMESTOWN CHARTER TOWNSHIP ZONING ORDINANCE.

THE CHARTER TOWNSHIP OF JAMESTOWN, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Building Height. Section 3.23 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Except for parapet walls over four (4) feet in height, chimneys, silos and farm barns, private roof mounted television and radio antennas, cupolas, spires or other ornamental projections or water towers, no Building or Structure shall exceed a height fifty (50) feet. In the "AR" Zoning Districts, ground-mounted communication towers and wind-powered electrical generators exceeding thirty-five (35) feet in height may be permitted as Special Uses, subject to the provisions of Section 18.5.

Section 2. Bicycle Paths (Also Non-Motorized Pathways). Section 3.24 of the Zoning Ordinance shall be amended to state in its entirety as follows.

- A. It is hereby determined that Bicycle Paths promote and provide for the public health, safety, and general welfare by achieving the following public purposes:
1. Bicycle Paths provide a safer location for travel along streets and roads for bicyclists and pedestrians, including school children, than the edge of the traveled street or road.
 2. Bicycle Paths encourage and promote aerobic exercise by bicyclists and others utilizing the bicycle Paths.

3. Bicycle Paths conserve energy and reduce air pollution by allowing for a convenient means of travel by bicycle or as a pedestrian, rather than utilizing a motor vehicle.
 4. Bicycle Paths reduce traffic congestion by providing a safe location for bicycles and pedestrians, which results in fewer vehicles on the Street.
- B. In furtherance of the objectives set forth in 3.24.A., above the Township may require an applicant seeking site plan review in accordance with Chapter 17 (including, but not limited to site plan review for a site condominium in accordance with Chapter 27), to: (1) grant the necessary easements for the construction of Bicycle Paths; and either (2) construct Bicycle Paths as further provided in subsection 3.24.B.1 below; or (3) make a financial contribution to the Township for use by the Township, together with interest earned thereon, for Bicycle Paths. The Township, working with the applicant, and in consultation with the Township Engineer, shall determine the location of the necessary easements for Bicycle Paths so as to provide, develop and maintain a Township Bicycle Path system to connect neighborhoods, schools, business districts, parks, and other facilities and to accomplish the public health, safety and welfare concerns set forth in Section 3.24.A.
1. If a Bicycle Path is to be constructed by the applicant, such path shall be developed either (a) along the entire frontage of a development that abuts an existing Street, which is subject to site plan approval, or (b) internal to the applicant's proposed development to connect existing Bicycle Paths if a development's frontage either contains an existing Bicycle Path or is located across from an existing Bicycle Path for the entirety of the development frontage or both. If the Township permits a Bicycle Path internal to the development such internal path shall not include required street sidewalks pursuant to the Jamestown Charter Township Subdivision Ordinance or internal sidewalks for the purpose of pedestrian safety when located within and/or adjacent to parking lots for commercial and industrial uses. In making a determination and recommendation with respect to an internal Bicycle Path, the Planning Commission shall consider, in addition to any other relevant factors, all of the following standards:
 - a. The connectivity provided by the Bicycle Path to the existing Township trail system.

- b. The length of the Bicycle Path relative to the development frontage.
 - c. The benefit and proximity of the Bicycle Path related to other required internal pathways, such as sidewalks or walking trails.
 - 2. Uses subject to site plan review in accordance with Chapter 17, when located within the AR, R-1 or R-2 Zoning District, not including residential developments, shall be exempt from the requirements of this Section when the following circumstances exist:
 - a. There is an existing Bicycle Path located across from the applicant's proposed development and such existing Bicycle Path extends for the entirety of the frontage of the applicant's proposed development; or
 - b. The property containing the use is located more than one (1) mile from any existing residential development that was established pursuant to (i) Chapter 19, Chapter 27 or Chapter 28 of this Ordinance, or (ii) the Jamestown Charter Township Subdivision Ordinance and contains at least 30 or more residential lots or a net density of at least 1.5 units per acre.
- C. In order to achieve the public purposes described in subsection 3.24.A above, Planning Commission shall determine whether the applicant must provide an easement for future Bike Path construction. The Planning Commission shall also determine whether the applicant shall (1) construct Bicycle Paths at the same time as the site plan approval, (2) make a financial contribution to the Township for use by the Township, together with interest earned thereon, for the construction of the required Bicycle Paths, or (3) construct an internal Bicycle Path. The Township Engineer shall review and provide a recommendation as to the preferred location and the estimated cost of the proposed Bicycle Path, and the amount of the contribution to be required of the applicant if the Planning Commission determines a contribution should be made in lieu of construction of or an easement for the Bicycle Path.

In making a determination and recommendation with respect to the Bicycle Path, the Planning Commission shall consider, in addition to any other relevant factors, all of the following standards:

- 1. Vehicle traffic likely to be generated by the development which requires site plan approval.

2. Bicycle, pedestrian, and other non-vehicle traffic likely to be generated by the development requiring site plan approval.
3. The importance of the required Bicycle Path to provide a safe means for bicyclists and pedestrians, including children, to access schools, churches, parks, libraries, and other amenities intended for their use.
4. The proximity of the development requiring site plan approval to attractions such as parks, churches, public buildings, and shopping opportunities.

The Planning Commission shall include in its recommendations to the Township Board, its final recommendation concerning the necessity for any Bicycle Path for the proposed development, the recommended location of the Bicycle Path to be provided, if any, and whether the applicant shall: (1) provide necessary easements for the Bicycle Path; and either, (2) construct the Bicycle Path (3) make a financial contribution to the Township for the Township's construction of the Bicycle Path or (4) construct an internal Bicycle Path. The Planning Commission's recommendation pertaining to the Bicycle Path shall also state the rationale for its determinations.

This determination shall be effective to make the Bicycle Path construction, and any required easements, a condition of site plan approval and subject to the Planning Commission having the discretion to require a performance guarantee as is provided in Section 19.12.

- D. A Bicycle Path to be constructed by the applicant for site plan approval shall be designed and constructed in accordance with the following requirements:
 1. The Bicycle Path shall be at least eight (8) feet in width.
 2. The Bicycle Path shall be constructed in accordance with the Bicycle Path construction standards and requirements contained in the Jamestown Charter Township Sidewalks and Bicycle Paths Ordinance.
 3. The plans and specifications for the Bicycle Path shall be approved in advance of construction in writing by the Township.
- E. All Bicycle Path easements shall be a minimum of fifteen (15) feet wide, or as required by the Township Engineer.

Section 3. Height Requirements. Section 7.4D of the Zoning Ordinance shall be amended to state in its entirety as follows.

Height Requirements: No building or structure shall exceed thirty-five (35) feet in height.

Section 4. Height Requirements. Section 8.4D of the Zoning Ordinance shall be amended to state in its entirety as follows.

Height Requirements: No building or structure shall exceed thirty-five (35) feet in height.

Section 5. Height Requirements. Section 9.5D of the Zoning Ordinance shall be amended to state in its entirety as follows.

Height Requirements: No building or structure shall exceed thirty-five (35) feet in height.

Section 6. Maximum Building and Structure Height. Section 10.4E of the Zoning Ordinance shall be amended to state in its entirety as follows.

Maximum building and structure height: thirty-five (35) feet (Reference Sec. 3.23 for exceptions).

Section 7. Maximum Building and Structure Height. Section 12.4D of the Zoning Ordinance shall be amended to state in its entirety as follows.

Maximum building and structure height: fifty (50) feet (Reference Sec. 3.23 for exceptions).

Section 8. Maximum Building and Structure Height. Section 13.5D of the Zoning Ordinance shall be amended to state in its entirety as follows.

Maximum building and structure height: fifty (50) feet (Reference Sec. 3.23 for exceptions).

Section 9. Maximum Building and Structure Height. Section 14.5C of the Zoning Ordinance shall be amended to state in its entirety as follows.

Maximum building and structure height: fifty (50) feet (Reference Sec. 3.23 for exceptions).

Section 10. Optional Public Hearing. Section 19.8 of the Zoning Ordinance shall be amended to state in its entirety as follows.

The Planning Commission may, at their discretion, hold a public hearing on all applications for final PD approval authorization. Notice of the public hearing shall be as follows:

- A. Notice shall be published in a newspaper of general circulation in the area, and sent by mail or personal delivery to the owners of property for which PD authorization is being considered, to all persons to whom real property has been assessed within three hundred (300) feet of the property lines involved in the proposed PD, and to the occupants of all Structures within three hundred (300) feet of the property lines involved. 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 (1) occupant of a Structure, except that if a Structure contains more than one (1) Dwelling Unit or spatial area owned or leased by different persons, one (1) occupant of each such unit or area shall receive notice. In the case of a single Structure containing more than four (4) Dwelling Units or other distinct spatial areas owned by different persons, notice may be given to the manager or owner of the Structure who shall be requested to post the notice on delivery at a primary entrance.
- B. The notice shall be given not less than fifteen (15) days before the date the public hearing is to be held.
- C. The notice shall: (1) Describe the nature of the PD; (2) indicate the property which is the subject of the request and hearing; (3) state when and where the public hearing will be held; and (4) indicate when and where written comments on the proposed PD will be received.

Section 11. Bicycle Paths. Section 19.16 of the Zoning Ordinance shall be amended to state in its entirety as follows.

- A. It is hereby determined that Bicycle Paths promote and provide for the public health, safety, and general welfare by achieving the following public purposes:
 - 1. Bicycle Paths provide a safer location for travel along streets and roads for bicyclists and pedestrians, including school children, than the edge of the traveled street or road.
 - 2. Bicycle Paths encourage and promote aerobic exercise by bicyclists and others utilizing the Bicycle Paths.
 - 3. Bicycle Paths conserve energy and reduce air pollution by allowing for a convenient means of travel by bicycle or as a pedestrian, rather than utilizing a motor vehicle.

4. Bicycle Paths reduce traffic congestion by providing a safe location for bicycles and pedestrians, which results in fewer vehicles on the Street.
- B. In furtherance of the objectives set forth in 19.16.A., the Township may require an applicant seeking Planned Development review and approval in accordance with this Chapter to: (1) grant the necessary easements for the construction of Bicycle Paths; and either (2) construct Bicycle Paths as further provided in subsection 19.16.B.1 below; or (3) make a financial contribution to the Township for use by the Township, together with interest earned thereon, for Bicycle Paths. The Township, working with the applicant, and in consultation with the Township Engineer, shall determine the location of the necessary easements for Bicycle Paths so as to provide, develop and maintain a Township Bicycle Path system to connect neighborhoods, schools, business districts, parks, and other facilities and to accomplish the public health, safety and welfare concerns set forth in Section 19.16.A.
1. If a Bicycle Path is to be constructed by the applicant, such path shall be developed either (a) along the entire frontage of a development that abuts an existing Street, which is subject to site plan approval, or (b) internal to the applicant's proposed development to connect existing Bicycle Paths if a development's frontage either contains an existing Bicycle Path or is located across from an existing Bicycle Path for the entirety of the development frontage or both. If the Township permits a Bicycle Path internal to the development such internal path shall not include required street sidewalks pursuant to the Jamestown Charter Township Subdivision Ordinance or internal sidewalks for the purpose of pedestrian safety when located within and/or adjacent to parking lots for commercial and industrial uses. In making a determination and recommendation with respect to an internal Bicycle Path, the Planning Commission shall consider, in addition to any other relevant factors, all of the following standards:
 - a. The connectivity provided by the Bicycle Path to the existing Township trail system.
 - b. The length of the Bicycle Path relative to the development frontage.
 - c. The benefit and proximity of the Bicycle Path related to other required internal pathways, such as sidewalks or walking trails.

- C. As part of its review of the preliminary development plan as provided in Section 19.7.C, and in accordance with the provisions of Section 19.16, the Planning Commission shall determine whether the applicant shall provide an easement for future Bicycle Path construction. The Planning Commission shall also determine whether the applicant shall (1) construct Bicycle Paths at the same time as final development plan approval (2) make a financial contribution to the Township for use by the Township, together with interest earned thereon, for the construction of the required Bicycle Path, or (4) construct an internal Bicycle Path in order to achieve the public purposes described in subsection 19.16.A above.

In making this determination, the Planning Commission shall consider, in addition to any other relevant factors, the standards set forth in Section 3.24.C.

The Planned Development developer shall be provided a reasonable opportunity at a Planning Commission meeting to provide the Planned Development developer's position regarding the need for Bicycle Paths.

The Planning Commission shall include in its recommendation concerning the Planned Development preliminary plan provided for by Section 19.7.E., its final determination concerning the necessity for any Bicycle Path, the recommended location of the Bicycle Path to be provided, if any, and whether the applicant shall (1) provide necessary easements for the Bicycle Path; and either, (2) construct the Bicycle Path; (3) make a financial contribution to the Township for the Township's construction of the Bicycle Path or (4) construct an internal Bicycle Path. The Planning Commission recommendation pertaining to Bicycle Paths shall also state the Planning Commission's rationale for its determinations.

- D. As part of its consideration of final approval of the PD application as is provided in Section 19.10 above, the Township Board shall review and consider the Planning Commission recommendation concerning Bicycle Paths and then make a final determination, when determining whether to approve, deny, or approve with conditions the PD application and final site plan, as to what Bicycle Paths, if any, are to be required for the Planned Development and, if so, their location and the portion of the cost of the required Bicycle Paths, both easements and construction cost, to be borne by the Planned Development developer.

This determination shall be effective to make the Bicycle Path construction or contribution to the cost thereof, or both, and any required easements, to the extent the cost thereof is to be borne by the Planned Development developer, a condition of approval as is provided in Section

19.11 above, to be constructed or paid for by the Planned Development developer. As part of this Township Board consideration, the Planned Development developer shall be provided a reasonable opportunity at a Township Board meeting to provide the Planned Development developer's position regarding the need for Bicycle Paths and the portion of the cost thereof to be borne by the Planned Development developer.

- E. A Bicycle Path to be constructed by the Planned Development developer shall be designed and constructed in accordance with the following requirements:
 - 1. The Bicycle Path shall be at least eight (8) feet in width.
 - 2. The Bicycle Path shall be constructed in accordance with the Bicycle Path construction standards and requirements contained in the Jamestown Charter Township Sidewalks and Bicycle Paths Ordinance.
 - 3. The plans and specifications for the Bicycle Path shall be approved in advance of construction in writing by the Township.

- F. All dedicated Bicycle Path easements shall be a minimum of fifteen (15) feet wide.

Section 12. Effective Date. This amendment to the Jamestown Charter Township Zoning Ordinance was approved and adopted by the Township Board of Jamestown Charter Township, Ottawa County, Michigan on _____, 2017, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended; after introduction and a first reading on August 21, 2017, and after posting and publication following such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on _____, 2017, which date is the eighth day after publication of a Notice of Adoption and Posting of the Zoning Text Amendment Ordinance in the *Grand Valley Advance* and the *Southwest Advance* as required by Section 401 of Act 110, as amended. However, this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Ken Bergwerff, Township Supervisor

Candy DeHaan, Township Clerk

CERTIFICATE

I, Candy DeHaan, the Clerk for the Charter Township of Jamestown, Ottawa County, Michigan, certify that the foregoing Jamestown Charter Township Zoning Text Amendment Ordinance was adopted at a regular meeting of the Township Board held on _____, 2017. The following members of the Township Board were present at that meeting:

_____. The following members of the Township Board were absent:

_____.

The Ordinance was adopted by the Township Board with members of the Board _____

voting in favor and members of the Board _____

_____ voting in opposition. Notice of Adoption of the

Ordinance was published in the *Grand Valley Advance* and the *Southwest Advance* on

_____, 2017.

Candy DeHaan, Clerk
Jamestown Charter Township