

CHANGES AND AMENDMENTS

ARTICLE XVIII

CHANGES AND AMENDMENTS

SECTION 18.00 - STATEMENT OF INTENT

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the municipality generally to rezone an area, extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by City Council on its own motion, may be initiated by any person, firm, or corporation filing an application therefore with City Council, or by the Planning Commission, at its discretion who may also initiate amendments to this Ordinance and recommend the same to legislative body for adoption.

SECTION 18.01 - AMENDMENT PROCEDURE

Filing of Applications

All petitions for amendments to this Ordinance shall be in writing, signed, and filed in triplicate with the Clerk for presentation to City Council.

- (a) All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
1. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 2. The nature and effect of the proposed amendment.
 3. If the proposed amendment would require a change in the Zoning Map, a fully dimensioned Site Plan showing the land which would be affected by the proposed amendment, a complete legal description of the land, the present zoning classification of the land, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 4. If the proposed amendment would require a change in the Zoning Map, the names and addresses of the owners of all land and their legal descriptions within the area to be changed by the proposed amendment.

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5. The alleged error in this Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
 6. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
 7. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.
- (b) The Council upon receipt of the petition to amend, after having been examined and approved as to form by the clerk, shall refer the same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the petition to be made and shall recommend to City Council such action as it deems proper. A public hearing shall be held by the Planning Commission before their recommendation to Council of any proposed amendment to this Ordinance. Notice of the public hearing shall be given by publishing said notice at least once in a newspaper of general circulation in the municipality stating the time and place of such hearing and the substance of the proposed amendment. This notice shall appear in said newspaper at least fifteen (15) days prior to the date set for the public hearing. In addition to the above, if an individual property or several adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than 8 days before the hearing stating the time, place, date, and purpose of the hearing.
- (c) The Council may not enact the proposed amendment until thirty (30) days after such referral to the Planning Commission or until the Planning Commission makes its report to the City Council, whichever first occurs. The Council may adopt such with or without amendments, or refer same again to the Planning Commission.
- (d) In case a protest against any proposed amendment to this Ordinance is presented in writing to the Clerk prior to the public hearing thereon, duly signed by the owners of twenty (20) percent or more of the frontage proposed to be altered, or by the owner of twenty (20) percent or more of the frontage immediately to the rear thereof, or by the owners of twenty (20) percent or more of the frontage directly opposite the frontage proposed be altered, such amendment shall not be passed except by a vote of four-fifths of the members of the Council.

SECTION 18.02 - COMPREHENSIVE REVIEW OF ORDINANCE

The Planning Commission shall, from time to time at intervals of not more than three (3) years, examine the provisions of this Ordinance and the location of district boundary

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lines and shall submit a report to City Council recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare.

SECTION 18.03 – REZONING WITH CONDITIONS

Rezoning With Conditions:

In accordance with MCL 125.3405, the City Council, following a public hearing and recommendation by the Planning Commission, may approve a petition for a rezoning with conditions requested by a property owner. The standards of this section shall grant a property owner the option of proposing conditions for the development and use of property in conjunction with an application for rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

(a) Conditional Rezoning Agreement. The conditions attached to the rezoning shall be set forth by submitting a conditional rezoning agreement listing the proposed conditions. A conditional rezoning agreement shall contain the following information:

1. A statement acknowledging that the rezoning with conditions was proposed by the applicant to request the City to grant the rezoning, and that the City relied upon such proposal and would not have otherwise granted the rezoning but for the terms spelled out in the conditional rezoning agreement; and, further agreement and acknowledgment that the conditions and conditional rezoning agreement are authorized by all applicable state law, federal law, and both constitutions, and that the Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the City.
2. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the conditional rezoning agreement.
3. Agreement and understanding that the approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
4. The date upon which the rezoning with conditions becomes void, as specified in Section (c), below. If an extension of approval is granted by the City Council, a new conditional rezoning agreement with the new expiration date shall be recorded.
5. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section (c), below, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
6. Agreement and understanding that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is

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roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

7. A legal description of the property affected by the rezoning with conditions.

8. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, lighting, landscaping etc.

9. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

10. A conditional rezoning agreement may contain a conditional rezoning plan as an attachment, with such detail and inclusions proposed by the applicant and approved by the City Council in accordance with this Section, following recommendation by the Planning Commission. Inclusion of a conditional rezoning plan as an attachment to a conditional rezoning agreement shall not replace the requirement for preliminary and final Site Plan, subdivision, condominium, or special condition land use review and approval, as required.

(b) Amendment. A proposed amendment to a conditional rezoning agreement shall be reviewed and approved in the same manner as a new rezoning with conditions.

(c) Period of Approval. Unless extended by the City Council for good cause, the rezoning with conditions shall expire following a period of one (1) year from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the City commences within the one (1) year period and proceeds diligently and in good faith as required by ordinance to completion.

1. Expiration. In the event bona fide development has not commenced within one (1) year from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect. The landowner may apply for a one (1) year extension one (1) time. The request must be submitted to the City Clerk before the expiration of the initial one (1) year time limit period. The landowner must show good cause as to why the extension should be granted.

2. Effect of Expiration. If the rezoning with conditions becomes void in the manner provided in this section, either or both of the following actions may be taken:

- a. The property owner may seek a new rezoning of the property; and/or
- b. Pursuant to MCL 125.3405, the land shall revert to its former zoning classification following the process for approval of a rezoning with conditions.

(d) Zoning Map. If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned accompanied by a reference to "RWC Rezoning with Conditions" The Zoning

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map shall specify the new zoning district plus a reference to RWC. For example, the zoning classification of the property may be “C-1 Local Business District with Conditional Rezoning,” with a Zoning Map designation of “C-1, RWC.”

(e) Review and Approval Process. An application for a rezoning with conditions shall be reviewed following the same process and procedures applicable to a rezoning set forth in Section 18.01 (Amendment Procedure), with the exception that the conditional rezoning agreement shall be executed between the applicant and the City Council at the time of City Council approval of a rezoning with conditions.

(f) Recordation of a Conditional Rezoning Agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, and after the conditional rezoning agreement is recorded with the Oakland County Register of Deeds.

(g) Violation of Conditional Rezoning Agreement. If development and/or actions are undertaken on or with respect to the property in violation of the conditional rezoning agreement, such development and/or actions shall constitute a nuisance per se. In such case, the City may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the conditional rezoning agreement, the City may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates in addition to or in lieu of such other lawful action to achieve compliance.