

**ZONING ORDINANCE  
CHANGES AND AMENDMENTS  
ARTICLE XI SECTION 1100**

**ARTICLE XI. CHANGES AND AMENDMENTS**

**Sec. 1100. - Purpose.**

The city council may, from time to time, on recommendation from the planning commission, on its own motion, or on petition, amend, supplement, modify, or change this ordinance in accordance with the authority of Act No. 110 of the Public Acts of Michigan of 2006, as amended, in accordance with the following procedural outline:

(A) A petition for amendment to this ordinance by an owner, or other person having a sufficient interest, may be presented to the city council. Such petition shall be accompanied with a fee in an amount established by resolution by the city council and shall be used to defray the expense of publishing required notices and related expenditures. Should no public hearing be held thereon, the fee shall be refunded to the petitioner.

(B) All amendment proposals not originating with the planning commission shall be referred by the city council to the planning commission for a recommendation before any action is taken by the city council.

(C) The planning commission shall study the proposed ordinance amendment and make written recommendation to the city council for approval, conditional approval, or disapproval. In the course of such study, the planning commission shall hold a public hearing on the proposed amendment as required by the provisions of Public Act 110 of the Public Acts of Michigan of 2006, as amended.

(D) An owner of land may voluntarily offer in writing and the City may approve, certain use and development of land as a condition to the approval of a rezoning consistent with the provisions of Section 405 of Public Act No. 110 of 2006 (M.C.L. 125.3405) and in accordance with the following:

(1) Procedure. Except as otherwise provided herein, the application, review, and approval of a conditional rezoning request shall follow the same procedures as established by the City Council and as provided by Public Act No. 110 of 2006 (M.C.L. 125.3101 et seq.) for all rezoning requests without an offer of conditions.

A written offer of conditions may be submitted either at the time an application for rezoning is filed or at a later time during the rezoning process. An applicant may voluntarily amend or withdraw all or part of the offer of conditions at any time during the rezoning process, provided that if such amendment or withdrawal occurs subsequent to the planning commission's public hearing on the original request, the rezoning application shall be referred back to the planning commission for a new public hearing and recommendation. Notice of the public hearing shall be given as required by state law. An offer of more restrictive conditions may not require a new public hearing.

(2) Conditions. An offer of conditions submitted as part of a conditional rezoning request shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(3) Approval. Upon approval of a conditional rezoning request, the applicant shall submit a formal written statement of conditions which shall be incorporated by attachment as an inseparable part of the ordinance adopted by the City Council. The statement of conditions shall:

(a) Be in a form recordable with the Macomb County Register of Deeds and include a statement acknowledging that it is recorded.

(b) Contain a legal description of the land to which it pertains.

(c) Acknowledge that upon the rezoning taking effect, the use and development of the land shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by the statement of conditions.

(d) Contain a provision acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land. Any person who establishes a development or commences a use upon such land shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions.

(e) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(f) Specify that failure to comply with any of the conditions set forth in the statement of conditions shall constitute a violation of this zoning ordinance and shall be punishable accordingly.

(g) Contain the notarized signatures 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 document.

(4) *Recording.* The approved statement of conditions shall be filed by the city clerk with the Macomb County Register of Deeds. The City Council shall have the ability to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land. An approved conditional rezoning shall be designated on the zoning map in a manner that identifies that the property is subject to a statement of conditions.

(5) *Effect.* The following shall apply to approved conditional rezoning requests:

(a) Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if (1) it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and or use of will commence within the period of extension and proceed diligently thereafter to completion and (2) the City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(b) If approved development and/or use of the rezoned land does not occur within the timeframe specified under section 1100(5)(a), then the land shall revert to its former zoning classification as set forth in Section 405(2) of Public Act No. 110 of 2006 (M.C.L. 125.3405). The reversion process shall be initiated by the City Council requesting that the planning commission proceed with consideration of the rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other zoning requests.

(c) When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to section 1100(5)(b) or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City clerk shall record with the Macomb County Register of Deeds a notice that the statement of conditions is no longer in effect.

(d) During the time period for commencement of an approved development or use specified pursuant to section 1100(5)(a) or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the statement of conditions.

(e) The statement of conditions may be amended thereafter in the same procedure as set forth for the original conditional rezoning approval.

(f) Nothing in the statement of conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and Public Act No. 110 of 2006 (M.C.L. 125.3101 et. seq.).