

Article XXIII

AMENDMENT PROCEDURE

Section 23.01 INITIATION OF AMENDMENTS

The City Council may, from time to time, amend, modify, supplement, or revise the zoning district boundaries shown on the Official Zoning Map or the provisions of this Ordinance. Amendments may be initiated by resolution of the City Council, the Planning Commission, or by petition of one or more property owners to be affected by the proposed amendment.

Section 23.02 AMENDMENT REQUEST

An amendment to this Ordinance or the Official Zoning Map, except those initiated by the City, shall be initiated by submission of a completed application form and fee. The following information shall accompany the Zoning Amendment application form:

- A. A legal description and street address of the subject property, together with a scaled map identifying the subject property in relation to surrounding properties clearly showing the property's location.
- B. The name and address of the owner of the subject site, and a statement of the applicant's interest in the subject site if not the owner in fee simple title.
- C. The existing and proposed zoning district designation of the subject property.
- D. The land use classification for the subject site as illustrated on the City's Master Plan.
- E. In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description of the proposed amendment and rationale for the change shall accompany the application form.
- F. A written description of how the requested rezoning meets Section 23.05 Criteria for Amendment of the Official Zoning Map, or Section 23.06 Criteria for Amendments to the Zoning Ordinance Text.

Section 23.03 AMENDMENT PROCEDURE

- A. Upon initiation of an amendment, a work session and public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given as required by the Michigan Zoning Enabling Act

(Public Act 110 of 2006, as amended) as provided in Section 22.08.

- B. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the City Council. The Planning Commission shall consider the criteria listed in Section 23.05 for a requested amendment to the Official Zoning Map, and the criteria listed in Section 23.06 for requested amendments to the standards and regulations in the text.
- C. Following receipt of the findings and recommendation of the Planning Commission, the City Council shall act on the proposed amendment. In the case of an amendment to the text of this Ordinance, the City Council may modify or revise the proposed amendment recommended by the Planning Commission prior to enactment. A Zoning Ordinance and any amendment shall be approved by a majority vote of members of the City Council. In the case of an amendment to the Official Zoning Map, the City Council shall approve or deny the amendment, based on its consideration of the criteria in Section 23.05.
- D. Following adoption of a zoning ordinance or any subsequent amendments by the City Council, the Zoning Ordinance or subsequent amendments shall be filed with the City Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the City of Dexter within 15 days of after adoption.

The notice required shall include all of the following information:

- 1. In the case of a newly adopted Zoning Ordinance, the following statement:
“A zoning ordinance regulating the development and use of land has been adopted by the City Council of the City of Dexter.”
 - 2. In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
 - 3. The effective date of the ordinance or amendment.
 - 4. The place where and time when a copy of the ordinance or amendment may be purchased or inspected.
- E. Except as otherwise provided under Section 23.03 D., a Zoning Ordinance shall take effect upon the expiration of seven days after publication as required by Section 23.03 E. or at such later date after publication as may be specified by the City Council.

Section 23.04 AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the City Council and published, without necessity of a public hearing or referral thereof to any other board or agency.

Section 23.05 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP

- A. **Review.** In considering any petition for an amendment to the Official Zoning Map, the Planning Commission and City Council shall identify and evaluate all factors relevant to the application, and shall report its findings in full, along with its recommendations for disposition of the application, to the City Council.
- B. **Findings.** The facts to be considered by the Planning Commission and City Council shall include, but not be limited to the following criteria:
1. **Consistency with the City of Dexter Master Plan.** If conditions upon which the Master Plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the Master Plan was adopted. Consistency with recent development trends in the area may be considered.
 2. **Compatibility with the Environment.** Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses permitted in the proposed zoning district.
 3. **Return on Investment.** Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one of the uses permitted under the current zoning.
 4. **Use Compatibility.** The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
 5. **Impact on City Services.** The capacity of the City's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare".
 6. **Demand for Use.** The apparent demand for the types of uses permitted in the requested zoning district in the Dexter area in relation to the amount of land currently zoned and available to accommodate the demand.
 7. Other factors deemed appropriate by the Planning Commission and City

Council.

Section 23.06 CRITERIA FOR AMENDMENT TO THE ZONING ORDINANCE TEXT

The Planning Commission and City Council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the Zoning Ordinance.

- A. Documentation has been provided from City Staff or the Board of Zoning Appeals indicating problems and conflicts in implementation of specific sections of the Ordinance.
- B. Reference materials, planning and zoning publications, information gained at seminars or experiences of other communities demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.
- C. The City Attorney recommends an amendment to respond to significant case law.
- D. The amendment would promote implementation of the goals and objectives of the City's Master Plan.
- E. Other factors deemed appropriate by the Planning Commission and City Council.

Section 23.07 RESTRICTIONS ON RESUBMITTAL OF A REZONING REQUEST

An application for an amendment to the Official Zoning Map that has been denied shall not be reconsidered for one year, unless the applicant demonstrates that conditions have changed.

Section 23.08 CONDITIONAL REZONING OF LAND

- A. **Authorization and Limitations.** As an alternative to a rezoning amendment as described in Section 23.01 of this Ordinance, the City Council shall have the authority to place conditions on a rezoning, provided the conditions have been voluntarily offered in writing by the applicant and are acceptable to the City Council. In exercising its authority to consider a conditional rezoning, the City is also authorized to impose the following limitations:
 - 1. An owner of land may voluntarily offer written conditions relating to the use and/or development of land for which a conditional rezoning is requested. This offer may be made either at the time of the application for conditional

rezoning is filed, or additional conditions may be offered at a later time during the conditional rezoning process as set forth below.

2. The owner's offer of conditions may not authorize uses or developments not permitted in the proposed zoning district. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested.
 3. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of Article 24 of this Ordinance.
 4. Conditional rezoning shall not grant special land use approval. The process for review and approval of special land uses must follow the provisions of Article 8 of this Ordinance.
 5. In addition to the informational requirements provided for in Section 23.02 of this ordinance the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this Ordinance. The site plan shall show the location, size, height, or other dimensions for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property that are the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan shall be determined by the applicant, subject to approval of the City. A conditional rezoning site plan shall not replace the requirement under this Ordinance for site plan review and approval, or subdivision or site condominium approval, as the case may be.
- B. **Amendment of Conditions.** The offer of conditions may be amended during the process of conditional rezoning consideration, provided any amended or additional conditions are entered voluntarily by the owner, and confirmed in writing. An owner may withdraw in writing all or part of its offer of conditions any time prior to final rezoning action of the City Council, provided such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- C. **Procedure.** The procedure for consideration of a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to Article 23 of this Ordinance in addition to the following:

1. A conditional rezoning request shall be initiated by the applicant submitting a proposed Conditional Rezoning Agreement. A conditional Rezoning Agreement shall include the following information:
 - a. A written statement that confirms the Conditional Rezoning Agreement was proposed by the applicant and entered into voluntarily.
 - b. A written statement that confirms the property will not be used or developed in a manner that is inconsistent with conditions placed on the rezoning.
 - c. A list of conditions proposed by the applicant.
 - d. A timeframe for completing the proposed improvements.
 - e. A legal description of the land.
 - f. A sketch plan in sufficient detail to illustrate any specific conditions proposed by the applicant.
2. The notice of public hearing on a conditional rezoning request shall include a general description of the proposed agreement being considered. A review of the proposed agreement shall be conducted at the public hearing.
3. A conditional rezoning may only be approved upon a finding and determination that all of the following are satisfied:
 - a. The conditions, proposed development, and/or proposed use of the land are designed or proposed for public health, safety, and welfare purposes.
 - b. The conditions, proposed development and/or proposed use are not in material conflict with the Master Plan, or, if there is material conflict with the Master Plan, such conflict is due to one of the following:
 - i. A change in City policy since the Master Plan was adopted.
 - ii. A change in conditions since the Master Plan was adopted.
 - iii. An error in the Master Plan.
 - c. The conditions, proposed development and/or proposed use are in accordance with all terms and provisions of the zoning district to

which the land is to be rezoned, except as otherwise allowed in the Conditional Rezoning Agreement.

- d. Public services and facilities affected by the proposed development will be capable of accommodating service and facility loads caused by use of the development.
- e. The conditions, proposed development and/or proposed use shall ensure compatibility with adjacent uses of land.

D. **Amendment to Zoning Map.** Upon approval by the City Council of a Conditional Rezoning request and a Conditional Rezoning Agreement, as provided by this section, the Zoning Map shall be amended to reflect a new zoning classification along with a relevant designation that will provide reasonable notice of the Conditional Rezoning Agreement.

E. **Expiration** A Conditional Rezoning Approval shall expire two years from the effective date of the rezoning unless development has been diligently pursued and substantial completion has occurred in accordance with permits issued by the City.

- 1. In the event the conditional rezoning expires, the rezoning and the Conditional Rezoning Agreement shall be void and of no effect.
- 2. If the Conditional Rezoning becomes void, no development shall be undertaken and no permits for development shall be issued until such time as a new zoning district classification of the property has become effective as a result of one or both of the following actions that may be taken:
 - a. The property owner seeks a new zoning classification for the property; and/or
 - b. The City initiates a new request for the property to a reasonable district classification, in accordance with the conventional rezoning procedure.
- 3. The two year allotted approval may be extended upon the application of the landowner and approval of the City.

F. **Recording.** A Conditional Rezoning Approval shall not become effective until a copy of the Conditional Rezoning Agreement is filed with the Washtenaw County Register of Deeds, and a certified copy of the Agreement is filed with the City Clerk.

G. **Violation of Conditional Rezoning Agreement.** If development and/or actions are undertaken in violation of the Conditional Rezoning Agreement, such development and/or actions shall constitute a violation of this Ordinance and

deemed 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 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.