

Article 18 Amendments

Section 18.1 Purpose

The purpose of this Article is to identify the procedures for initiation and review of text and map amendments to this Zoning Ordinance and provide standards for approval of the proposed amendments. [20-2]

Section 18.2 Initiation of Amendment

- A. Proposed amendments to the zoning map or text to the Zoning Ordinance may be initiated by:
1. The Township Board
 2. Planning Commission
 3. Zoning Board of Appeals
 4. Owner of a parcel or someone else with approval of the owner or under the terms of a purchase agreement, by application. [20-1]

Section 18.3 Application

- A. Application by a resident or property owner for an amendment shall be submitted to Zoning Administrator at least 20 days prior to the Planning Commission meeting at which the public hearing on the request will be held.
1. The application for the amendment shall include:
 - a. Name, address, and phone number of applicant
 - b. Signature of owner of the subject parcel if not the applicant, proof of their approval of the request or a copy of a purchase agreement on the property.
 - c. Street address and tax ID number. [G-1]
 - d. The fee established by the Township Board.
 - e. In the case of a map amendments request:
 - i. The current zoning of the subject parcel.
 - ii. The proposed zoning of the subject parcel.
 - iii. A copy of the deed for the subject property or it's legal description.
 - iv. A traffic impact analysis as required by Section 7.22B.6.
 - v. An Community Impact Statement as required by Section 7.22.
 - vi. A map of all adjacent zoning. [G-1]
 - f. In the case of a proposed text amendments:
 - i. A copy of the proposed language.
 - ii. A written description of how the requested amendment meets the criteria. [G-1]
 2. Requests to rezone two or more non-contiguous parcels may be considered under one application. [20-3]

Section 18.4 Procedure

- A. Amendments initiated by the Township Board, Planning Commission, or ZBA shall be submitted to Zoning Administrator at least twenty (20) days prior to the Planning Commission meeting at which the public hearing on the request will be held and shall consist of the resolution passed initiating the request and any associated information. No fee shall be required. [G-1]
- B. The Planning Commission shall hold a public hearing on any zoning amendment initiated before action on the amendment is taken by the Township Board.
- C. Notice of the public hearing shall be provided at least fifteen (15) days prior to the public hearing as follows: [20-5]
 1. For both text and map amendments and rezonings:
 - a. Notice published in the paper at least fifteen (15) days prior to the public hearing.
 - b. Any airport, local utilities, or railroads that submits a request in writing to the Township Clerk shall get a mailed notice of the proposed amendment. [G-1]
 - c. Notice to the applicant.
 2. For map amendments only:
 - a. Notice to the residents and property owners of all parcels within 300 feet of the subject parcel regardless of whether or not the parcels are located in Kenockee Township. Except where stated in the Michigan Zoning Enabling Act Sec. 202(3).. [G-1]
 - b. Notice to the neighboring Planning Commission shall be provide by the Zoning Administrator when the subject parcel in Kenockee Township is within three hundred (300) feet of the Township's boundary. [G-1]
 3. The notice shall contain the following:
 - a. A description of the proposed amendment.
 - b. In the case of a proposed map amendment, the street address of parcel that is the subject of the request in the case of a rezoning. If the property does not have a street address, the parcel's tax description will be used.
 - c. When and where the amendment public hearing will be held.
 - d. When and where written comments can be sent.
 - e. When and where a copy of the amendment can be reviewed.
- D. Planning Commission Hearing and Recommendations: After conducting the required public hearing, the Township Planning Commission shall make a recommendation to approve or deny the proposed amendment to the Ordinance. The Planning Commission shall transmit its recommendation along with a summary of comments received at the public hearing in writing to the Township Board.
- E. The Zoning Administrator shall coordinate communication between the Township Planning Commission and St. Claire County Metropolitan Planning Commission.

Following review by the Township Planning Commission, a copy of the application shall be submitted to the St. Claire County Metropolitan Planning Commission through the office of the County Planner for review and recommendation. The County Planning Commission has thirty (30) days to submit a recommendation to the Township Board on the proposed amendment based upon the petitions level of conformity with the Township Master Plan. [20-6] [G-1]

- F. Upon receipt of the recommendations of the Township Planning Commission, the Township Board shall undertake consideration of the proposed rezoning or text amendment.
1. If they prefer, the Township Board may hold a public hearing on the amendment. If they choose to hold a public hearing, the Township Board must meet the notice requirements outlined in Section 16.8 [G-1]
 2. If the Township Board proposes any changes to the amendments they may, at their option, send the changes back to the Planning Commission for their review. [G-1]
 3. If a property owner submits a request to the Township Clerk by certified mail to be heard regarding a proposed amendment, the Township Board must provide an opportunity for that person to speak on the amendment prior to making a decision and provide them with written notice of the date time and location of the hearing. [G-1]
- G. An amendment to the Zoning Ordinance requires approval by a majority of the members of the Township Board, not just a majority of the members attending the meeting.
- H. Following adoption of the zoning amendment, one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days of adoption. The notice shall include:
1. A summary of the regulatory effect of the amendment or the actual text of the amendment.
 2. The effective date of the Ordinance. This date may be as few as seven (7) days after the publication of the Ordinance.
 3. The place and time where a copy of the Ordinance may be purchased or inspected.
- I. If within seven (7) days after publication of an amendment to the Ordinance, the Township Board is presented with a notice of intent to file a petition opposing the amendment from a registered elector residing in the Township, a petition may be filed with the Township Clerk within thirty (30) days following publication of the Ordinance. If a petition signed by a number of registered electors residing in the Township, equal to not less than fifteen (15) percent the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, is filed with the Township Clerk, a referendum on the Ordinance amendment shall be held. A petition and an election under this Section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. [20-4] [G-1]

Section 18.5 Standards for Approval

In reviewing any proposed amendment, the Planning Commission and Township Board shall consider the following:

- A. In the case of a proposal to amend the Zoning Ordinance text, the Township shall find:
[G-1]
 - 1. The change is necessary to clarify a provision of the Ordinance, or
 - 2. The change is necessary to correct a mistake in the Ordinance, or
 - 3. The change is necessary to implement a goal or policy of the Township Master Plan, or
 - 4. The change is necessary to improve administration of the Ordinance or to better serve the community, or [G-1]
- B. In the case of a proposed zoning map amendment (rezoning) the Township shall find one of the following:
 - 1. The requested amendment is in compliance with the Township Master Plan or that a mistake in the plan or changes in conditions or Township policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
 - 2. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Master Plan. [20-7]

Section 18.6 Conditional Rezoning**A. Intent**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (PA 100 of 2006) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. [G-1]

B. Application and Offer of Conditions

- 1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- 2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made

without any offer of conditions, except as modified by the requirements of this Section.

3. The owner's offer of conditions may not require to authorize uses or developments not permitted in the requested new zoning district.
4. Approval of a conditional rezoning does not guarantee approval of any Conditional Use Permit which may be required as part of the conditional rezoning project, and review of the special land use permit must follow the procedures outlined in Article 15 before development can begin.
5. Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in Article 17 before development can begin.
6. Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in Article 14 before development can begin.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs after the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this Article.

C. Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 18.5 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner. [G-1]

D. Township Board Review

After receiving the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in subsection E in this Section. Should the Township Board propose amendments to the proposed conditional rezoning and amendments are acceptable to and offered by the owner, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this Article. [G-1]

E. Approval

1. If the Township Board finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written

Statement of Conditions provided said conditions conform with this Section. The Statement of Conditions shall be incorporated into the Ordinance adopted by the Township Board. [G-1]

2. The Statement of Conditions shall:
 - a. Be prepared as a notarized Affidavit prepared and signed by the owner.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this Section.
 - d. Include any diagram, plans, or other documents submitted that are necessary to illustrate the implementation of the Statement of Conditions. [G-1]
 - e. 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 Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Map shall also include a listing of all lands rezoned with a Statement of Conditions.

F. Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall be deemed a nuisance per se and shall constitute a violation of this Zoning Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the site plan for approved development shall be submitted within two (2) years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one (1) year unless another time period is specified in the Ordinance rezoning the subject land. These time limitations may upon written request be extended by the Township Board if: [G-1]

1. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and [G-1]
2. The Township Board 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. All applicable project completion deadlines in this Ordinance related to site plans, special use permits, and variances shall apply. [G-1]

H. Reversion of Zoning

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests. [G-1]

I. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions 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 Subsection H or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. If a Statement of Conditions has been recorded, upon the owner's written request, the Township Clerk shall record with the St. Clair County Register of Deeds a notice that the Statement of Conditions is no longer in effect. This provision is not intended to nullify any nonconforming rights a property may have acquired due to legal improvements made to the property while a Statement of Conditions was in effect. [G-1]

J. Amendment of Conditions

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G or during any extension granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions without the written agreement of the property owner.
2. The Statement of Conditions may be amended in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Township Right to Rezone

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township 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 the Michigan Zoning Enabling Act. [G-1]

L. Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance. [20-8] [G-1]