

**ORDINANCE NO. 2022 - 01**

**CITY OF ST. CLAIR**

**COUNTY OF ST. CLAIR, MICHIGAN**

**AN ORDINANCE OF THE CITY OF ST. CLAIR, ST. CLAIR COUNTY, MICHIGAN TO AMEND APPENDIX B OF THE CODE OF ORDINANCES, “ZONING;” ARTICLE 43, “ADMINISTRATION AND ENFORCEMENT;” SECTION 3.6, “AMENDMENTS;” BY ADDING SUBSECTION 3.6.5 “CONDITIONAL REZONING.”**

**THE CITY OF ST. CLAIR ORDAINS:**

**SECTION 1. AMENDMENT.**

Appendix B, Article 3, Section 3.6 of the City’s Code of Ordinances, the Zoning Ordinance, is hereby amended by adding subsection 3.6.5 “Conditional Rezoning” to read as follows:

**ARTICLE 3. – ADMINISTRATION AND ENFORCEMENT.**

*Subsection 3.6.5 Conditional Rezoning.*

A. *Intent.* The City recognizes that there are certain instances where it would be in its best interest, 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 rezoning. It is the intent of this subsection to provide a process consistent with Section 405 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, 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.

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 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 subsection.
3. Before making application for conditional rezoning, an applicant shall schedule a pre-application submission meeting with the City Superintendent, the Zoning Administrator, or their designees, for a preliminary review of the application for conditional rezoning and so that the applicant has a thorough understanding of the process. The applicant shall pay the City’s costs and expenses for this meeting.
4. The owner’s offer of conditions may not authorize uses or developments unpermitted in the requested new zoning district.

5. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
6. Any use or development proposed as part of an offer of conditions that would require a special use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the special use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
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.

C. Planning Commission Review. The Planning Commission, after a public hearing as set forth in subsection 3.6.1, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. City Council Review. After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested conditional rezoning and may approve, approve with recommended changes, or deny the request; however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

E. Approval.

1. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Conditional Rezoning Agreement acceptable to the owner and conforming in form to the provisions of this subsection. The Conditional Rezoning Agreement shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the City Council to accomplish the requested rezoning.

2. The Conditional Rezoning Agreement shall:

- a. Be in a form recordable with the St. Clair County Register of Deeds.
- b. Contain the legal description and tax identification number of the land to which it pertains.
- c. Contain a statement acknowledging that the Conditional Rezoning Agreement runs with the land and is binding upon successor owners of the land.
- d. 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 Conditional Rezoning Agreement. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- e. Contain a statement acknowledging that the Conditional Rezoning Agreement may be recorded by the City with the St. Clair County Register of Deeds.
- f. Contain the notarized signatures of all 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 Conditional Rezoning Agreement

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Conditional Rezoning Agreement. The City Clerk shall maintain a listing of all lands rezoned with a Conditional Zoning Agreement.

4. The approved Conditional Rezoning Agreement shall be filed by the City with the St. Clair County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that given the nature of the conditions and/or the timeframe 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.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Conditional Rezoning Agreement.

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 the conditions set forth in the Conditional Rezoning Agreement. Any failure to comply with a condition contained within the Conditional Rezoning Agreement shall constitute a violation of this 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 Conditional Rezoning Agreement.

G. Time Period for Establishing Development or Use. Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within twelve (12) 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 City Council determines: (1) 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 (2) that there has not been a change in circumstances that would render the current zoning with Conditional Rezoning Agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of Zoning. If the approved development and/or use of the rezoned land does not occur within the timeframe specified under subsection (G) above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the City Council 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.

I. Subsequent Rezoning of Land. When land that is rezoned with a Conditional Rezoning Agreement is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Conditional Rezoning Agreement, whether as a result of a reversion of zoning pursuant to subsection (H) above, or otherwise, then the Conditional Rezoning Agreement imposed under the former zoning classification shall cease to be in effect.

The City Clerk shall record with the St. Clair County Register of Deeds that the Conditional Rezoning Agreement is no longer in effect.

J. Amendment of Conditions.

1. During the time period for commencement of an approved development and/or use specified pursuant to subsection (G) above, or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Conditional Rezoning Agreement.

2. The Conditional Rezoning Agreement may be amended thereafter in the same manner set forth in subsection (B) above, as described for the original rezoning and Conditional Rezoning Agreement.

K. City Right to Rezone. Nothing in the Conditional Rezoning Agreement or 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 Conditional Rezoning Agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.

L. Failure to Offer Conditions. The City shall not require any 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.

**SECTION 2. SEVERABILITY.**

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

**SECTION 3. REPEAL OF ORDINANCES IN CONFLICT HEREWITH.**

Any and all Ordinances of the City of St. Clair or any parts or provisions thereof, to the extent that they are contrary to or inconsistent with the provisions of the within Ordinance, are hereby expressly repealed.

**SECTION 4. RATIFICATION.**

All other provisions of the code of Ordinances of the City of St. Clair, Michigan except as herein modified or amended are hereby expressly ratified and affirmed.

**SECTION 5. PUBLICATION.**

This Ordinance shall be published in accordance with the terms, provisions, and requirements of the City Charter of the city of St. Clair, Michigan, and in accordance with and to the extent required by the statutes of the State of Michigan.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take immediate effect upon publication in accordance with the provisions and requirements of the City Charter of the City of St. Clair.

**ORDINANCE DECLARED ADOPTED.**

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William Cedar, Jr., Mayor  
City of St. Clair, Michigan

**CERTIFICATION**

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of St. Clair, County of St. Clair, State of Michigan, at a regular meeting of the City Council held on the 7th day of February, 2022, and public notice of said meeting was given pursuant to and in accordance with the requirements of Act No. 267 of the Public Acts of 1976, as amended, being the Open Meetings Act, and the minutes of said meeting have been or will be made available as required by said Act.

Members Present: Cedar, Kindsvater, Kuffa, LaPorte, Paul, Volz  
Members Absent: Klieman

It was moved by Member LaPorte and supported by Member Kindsvater to adopt the Ordinance.

Members voting yes: Paul, Volz, Kindsvater, Kuffa, LaPorte, Cedar  
Members voting no: None

The Ordinance was declared adopted by the Mayor and has been recorded in the Ordinance Book of the City of St. Clair.

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Annette Sturdy, City Clerk  
City of St. Clair, Michigan

INTRODUCED: January 17, 2022  
ADOPTED: February 7, 2022  
PUBLISHED: February 10, 2022  
EFFECTIVE: February 10, 2022