

**ARTICLE 33.00
CHANGES AND AMENDMENTS**

**Section 33.01 AMENDMENTS BY PETITION OR PLANNING
COMMISSION MOTION**

The Township Board may, from time to time, on recommendation from the Township Planning Commission or on its own motion or on petition amend, supplement, modify or change this Ordinance in accordance with the authority of Act 110 of the Public Acts of 2006, as amended.

Section 33.01.1 Upon presentation of a petition to the Planning Commission, it shall be considered by them and after study, with professional and/or technical assistance, if deemed necessary, approve or deny a public hearing and inform the Township Board of their action. If the Planning Commission approves the public hearing, said Commission shall prepare a proposed amendment with or without modification and shall hold a public hearing thereon as required by Act 110 of the Public Acts of 2006, as amended. The Planning Commission may modify a proposed amendment after public hearing, provided the public notice includes a statement indicating that the Commission may at the time of Public Hearing modify the zoning amendment as proposed.

Section 33.01.2 After the Township Planning Commission has reached a decision as to a specific recommendation (approval or denial) to the Board, the proposed amendment shall be forwarded to the Monroe County Planning Commission. Upon receipt of the recommendation of the Monroe County Planning Commission, all pertinent data, the recommendation of the Township Planning Commission, and a summary of public comments, the matter shall be submitted to the Township Board for final action.

Amended July 8, 2008, by Zoning Ordinance Amendment No. 200-95.

Section 33.02 PETITIONS PREVIOUSLY DENIED

A period of not less than one (1) year is required between filing of applications for a change or amendment applying to a specific piece of property or a part of such property, where a prior petition was denied.

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Section 33.03 FEES

A fee as shall be determined by resolution of the Township Board shall be paid with each petition presented for a change or amendment to the Zoning Ordinance. Said fee shall cover the cost of preparing the amendment, review cost, notice of public hearing and advertising and printing and shall be paid to the Township Treasurer to the credit of the General Fund of the Charter Township of Frenchtown.

Section 33.04 CONDITIONAL REZONING

The Township recognizes that, under certain instances, it may be to the Township's and the landowner's advantage to consider rezoning of certain lands if the application is accompanied by a site plan and subject to certain conditions. Accordingly, it is the intent of this Section to provide a conditional rezoning option to landowners in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Section 33.04.1 Eligibility. A landowner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. To be eligible for review as a conditional rezoning, the landowner shall, as part of an application for rezoning of land to a new zoning district classification, voluntarily offer certain site-specific regulations or conditions that are equally or more restrictive than the regulations of this Ordinance for the proposed zoning district.

Section 33.04.2 Pre-Application Meeting. Prior to submitting a conditional rezoning application, the applicant may meet with the Township Zoning Administrator and other appropriate Township personnel that may include the Township Planner, Township Attorney, and Township Engineer for preliminary review of the proposal and the review process. The applicant shall pay the expenses incurred by the Township for this meeting.

Section 33.04.3 Application Requirements. A conditional rezoning amendment shall be initiated by submission of a complete application and site plan to the Township, along with the required fee established by Township Board.

Section 33.04.3(a) General Information. In the case of any amendment to the official Zoning Map, the following information shall accompany the application and fee:

Section 33.04.3(a)(1) A legal description and street address of the subject land, together with a survey and location map identifying the subject land in relation to surrounding properties.

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Section 33.04.3(a)(2) The name and address of the landowner, and a statement of the applicant's interest in the subject land, if not the owner in fee simple title.

Section 33.04.3(a)(3) The existing and proposed zoning district designation of the subject land and surrounding properties.

Section 33.04.3(a)(4) A written description of how the requested amendment meets the criteria stated in this Section.

Section 33.04.3(b) Additional Information for a Conditional Rezoning Application. The conditional rezoning application shall include the following additional information:

Section 33.04.3(b)(1) Conditional Rezoning Site Plan. The applicant shall provide a conditional rezoning site plan, including all information required by this Ordinance. The site plan shall be approved or denied along with the conditional rezoning.

Section 33.04.3(b)(2) Rezoning Conditions. The applicant, subject to the following, shall propose rezoning conditions in writing. Such rezoning conditions shall not:

Section 33.04.3(b)(2)(a) Authorize uses or development of greater intensity or density than are permitted in the district proposed by the rezoning.

Section 33.04.3(b)(2)(b) Authorize uses or development expressly or implicitly prohibited in the district proposed by the rezoning.

Section 33.04.4 Review and Approval Procedures. The review and approval process shall be the same as for rezoning amendments without conditions, as described in Section 33.01. The Planning Commission shall hold a public hearing and shall recommend action to the Township Board. The County Planning Commission shall, at its discretion, also make a recommendation to the Township Board.

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Section 33.04.5 Conditional Rezoning Agreement. The applicant shall prepare a proposed conditional rezoning agreement. The proposed agreement shall incorporate the conditional rezoning plan proposed by the applicant, and shall set forth the rezoning conditions and any other terms mutually agreed upon by the parties relative to the land subject to the proposed conditional rezoning.

Section 33.04.5(a) Contents and Terms. A conditional rezoning agreement shall include the following terms:

Section 33.04.5(a)(1) Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the conditional rezoning agreement.

Section 33.04.5(a)(2) Agreement and acknowledgement that the conditions and conditional rezoning agreement are authorized by all applicable state and federal laws and constitution, and that the conditional rezoning agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.

Section 33.04.5(a)(3) Agreement and understanding that the land in question shall not be developed or used in a manner that is inconsistent with the conditional rezoning plan and conditional rezoning agreement.

Section 33.04.5(a)(4) Agreement and understanding that the approval and conditional rezoning agreement shall be binding and upon and inure to the benefit of the landowner and the Township, and their respective heirs, successors, assigns, and transferees.

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Section 33.04.5(a)(5) Agreement and understanding that, if a conditional zoning becomes void in the manner provided in this Section, no development shall be undertaken or permits for development issued until the underlying zoning district classification of the land has been re-established by resolution of the Township Board.

Section 33.04.5(a)(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 roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.

Section 33.04.5(b) Effective Date and Recording of Conditional Rezoning Agreement. A conditional rezoning shall become effective following both publication in the manner provided by law and recording of the conditional rezoning agreement with the Monroe County Register of Deeds office by the applicant with proof of recording given to the Clerk's Office.

Section 33.04.5(c) Amendment of Conditional Rezoning Agreement. Amendment of a conditional rezoning agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.

Section 33.04.5(d) Expiration of conditional rezoning agreement. The conditional rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning unless:

Section 33.04.5(d)(1) Approved development of the land commences within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion; or

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Section 33.04.5(d)(2) The rezoning is extended for good cause by the Township Board as provided for in Section 33.04.I, Extension of Conditional Rezoning Approval.

Section 33.04.5(d)(3) The approved Conditional Rezoning Agreement specifies a different time line.

Section 33.04.6 Approval Criteria. The applicant shall have the burden of demonstrating that the following requirements and standards are met by the conditional rezoning plan, rezoning conditions, and conditional rezoning agreement:

Section 33.04.6(a) Enhancement of the project area. The Township Board shall determine that approval of the conditional rezoning shall:

Section 33.04.6(a)(1) Accomplish the integration of the proposed land development project with the characteristics of the project area; and

Section 33.04.6(a)(2) Result in an enhancement of the project area that would be unlikely to be achieved or would not be assured without the use of conditional rezoning.

Section 33.04.6(b) In the Public Interest. The Township Board shall determine that, in considering the site specific land use proposed by the applicant, sufficient conditions have been included in the conditional rezoning plan and conditional rezoning agreement so that the public interest would be served by granting the conditional rezoning.

In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles and factors.

Section 33.04.6(c) Other Amendment Considerations. In considering a conditional rezoning amendment, the Planning Commission and Township Board shall also consider the following factors:

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- Section 33.04.6(c)(1) Consistency with the Master Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
- Section 33.04.6(c)(2) Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with the site's physical, geological, hydrological, and other environmental features.
- Section 33.04.6(c)(3) Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with surrounding uses, densities, and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- Section 33.04.6(c)(4) Capacity of available utilities and public services to accommodate all potential uses allowed in the zoning district(s) under the proposed conditional rezoning without compromising the health, safety, and welfare of Township residents or burdening the Township or Monroe County with unplanned capital improvement costs or other unplanned public expenses.
- Section 33.04.6(c)(5) Capability of the road system to safely and efficiently accommodate the expected traffic generated by all potential uses allowed in the zoning district(s) under the proposed conditional rezoning.
- Section 33.04.6(c)(6) The apparent demand for the types of potential uses allowed in the zoning district(s) under the proposed conditional rezoning in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.

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Section 33.04.6(c)(7) The boundaries of the proposed zoning district(s) in relationship to the surrounding area and the scale of future development on the site.

Section 33.04.6(c)(8) The requested conditional rezoning will not create an isolated or incompatible zone in the area.

Section 33.04.6(c)(9) Other factors deemed appropriate by the Township Board.

Section 33.04.7 Zoning District Designation. If approved, the zoning classification of the rezoned land shall consist of the district to which the land has been rezoned accompanied by a reference to “CR” (Conditional Rezoning). For example, the Official Zoning Map designation for a conditional rezoning to the C-2 District would be “C-2 Transition/CR.”

Section 33.04.8 Re-Application. Whenever a conditional rezoning application has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Township determines that one or more of the following conditions has been met:

Section 33.04.8(a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.

Section 33.04.8(b) New or additional information is available that was not available at the time of the review.

Section 33.04.8(c) The new application is materially different from the prior application.

Section 33.04.9 Extension of Conditional Rezoning Approval .In the event that a bona fide development has not commenced within two (2) years from the effective date of the rezoning, the conditional rezoning and conditional rezoning agreement shall be void and of no effect.

Section 33.04.9(a) The Township Board may approve extensions upon written request by the landowner received by the Township Clerk before the two (2) year time limit expires.

Section 33.04.9(b) The landowner shall show good cause why the extension should be granted.

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Section 33.04.10 Revert to Former Zoning .If the conditional zoning becomes void and of no effect, then by automatic reverter set forth in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, the land shall revert to its former zoning classification, which shall be confirmed by resolution of the Township Board.

Section 33.04.11 Right to Rezone. The Township reserves the right to rezone a property that is subject to a Conditional Rezoning Agreement, using the process set forth in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Amended August 9, 2016, by Zoning Ordinance Amendment No. 200-122.

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