

ARTICLE 16

REZONING AND ZONING ORDINANCE TEXT AMENDMENTS

Section 16.01 Initiation of Rezoning and Zoning Ordinance Text Amendments.

16.01.01 **Zoning Amendment Initiation:** An amendment to the zoning district boundaries contained on the official zoning map (rezoning) and to the text of this ordinance may be initiated by the Village Council or the Planning Commission. An amendment to the zoning district boundaries may also be initiated by the owner or owners of property that is the subject of the proposed rezoning. An amendment to the text of this ordinance may also be initiated by the petition of one (1) or more residents or property owners of the Village.

Section 16.02 Rezoning and Zoning Ordinance Text Amendment Application Procedure.

16.02.01 **Application Information for Amendments:** An amendment to the official zoning map or this ordinance, except those initiated by the Village Council or Planning Commission, shall be initiated by submission of a complete application on a form supplied by the Village, including an application fee, which shall be established from time to time by resolution of the Village Council. Said application shall explicitly describe the proposed amendment and shall be signed by the applicant.

16.02.02 **Application Information for Zoning Map Amendment:** In the case of an application for amendment to the official zoning map (rezoning), the following information shall accompany the application:

- (a) information to indicate the dimensions, location and size of the subject property such as a sketch plan, property identification number, a legal description, street address of the subject property, a map identifying the subject property in relation to surrounding properties, or other method required by the Planning Commission;
- (b) the name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, and proof of consent from the property owner;
- (c) the existing and proposed zoning district designation of the subject property;
- (d) a written description of how the requested rezoning meets Sec. 16.04 Criteria for Amendment of the Official Zoning Map (Rezoning); and
- (e) at the Planning Commission's discretion, the following additional information may be required:
 1. a site analysis site plan illustrating existing conditions on the site and adjacent properties; such as woodlands, wetlands, soil conditions, steep slopes, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity.

2. a conceptual plot plan to scale demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors.
3. a traffic impact analysis if any use permitted in the requested zoning district could generate one hundred (100) or more peak hour directional trips, or 1,000 or more vehicle trips per day; the traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district; the determination of representative uses shall be made by the Planning Commission with input from Village staff and consultants.
4. the site to be staked to clearly indicate the location of the requested amendment. Flagged stakes shall be placed at each parcel corner.

Section 16.03 Rezoning and Zoning Ordinance Amendment Process.

- 16.03.01 **Public Hearing:** Upon initiation of a rezoning, zoning ordinance text amendment or master plan amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*
- 16.03.02 **Planning Commission Review and Recommendation:** 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 Village Council. In the case of an amendment to the official zoning map (rezoning), the Planning Commission shall consider the criteria contained in Sec. 16.04 Criteria for Amendment of the Official Zoning Map (Rezoning), below, in making its finding and recommendation.
- 16.03.03 **Village Council Review and Action:** Following receipt of the findings and recommendation of the Planning Commission, the Village Council shall consider the proposed ordinance map or text amendment. In the case of an amendment to the text of this zoning ordinance, the Village Council may modify or revise the proposed amendment as recommended by the Planning Commission. In the case of an amendment to the official zoning map (rezoning), the Village Council shall approve or deny the amendment, which may be based on consideration of the criteria contained in Sec. 16.04 Criteria for Amendment of the official zoning map (Rezoning).
- 16.03.04 **Notice of Adoption:** Following adoption of a zoning text or map amendment the Village Council, a notice will be published in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*
- 16.03.05 **Resubmittal:** No petition for rezoning or zoning ordinance text amendment that has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of denial except on the grounds of new evidence or proof of changed conditions.

Section 16.04 Criteria for Amendment of the Official Zoning Map (Rezoning).

In considering any petition for an amendment to the official zoning map (rezoning), the Planning Commission and the Village Council shall consider the following criteria in making its findings, recommendations and decision:

- 16.04.01 Consistency with the goals, policies and Future Land Use Map of the Village of Dundee Master Plan, including all applicable subarea and corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area;
- 16.04.02 Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district;
- 16.04.03 Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning;
- 16.04.04 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;
- 16.04.05 The capacity of Village infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Village;
- 16.04.06 The apparent demand for the types of uses permitted in the requested zoning district in the Village in relation to the amount of land in the Village currently zoned to accommodate the demand; and
- 16.04.07 Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

Section 16.05 Criteria for Amendment of the Official Zoning Ordinance Text.

The Planning Commission and Village Council shall, at minimum, consider the following before taking action on any proposed amendment:

- 16.05.01 Compatibility with the basic intent and purpose of the Zoning Ordinance;
- 16.05.02 Consistency with the goals and objectives and future land use map of the Village of Dundee Master Plan, including an sub-area or corridor studies;
- 16.05.03 The requested amendment will correct an error in current appropriate documentation;
- 16.05.04 The requested amendment will resolve an inequitable situation created by the Zoning Ordinance and does not grant special privileges;
- 16.05.05 The requested amendment will not result in unlawful exclusionary zoning;
- 16.05.06 There is documentation from Village staff or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance;

- 16.05.07 The requested amendment will address changes in state legislation, other Village ordinances, or federal regulations;
- 16.05.08 The requested amendment will resolve potential legal issues or administrative problems with the Zoning Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan;

Section 16.06 Conditional Rezoning of Land.

As an alternative to a rezoning amendment as described in Section 16.01 of this Ordinance, the Village of Dundee may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of Public Acts of Michigan of 2006, as amended. It is recognized that, in certain instances, it would be an advantage to both the Village and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Village, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

- 16.06.01 The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to Article 16 of this Ordinance.
- 16.06.02 In addition to the procedures as noted in Section 16.02 and 16.03, the following specific procedures, standards, and requirements apply to all proposed conditional rezoning requests.
- (a) A conditional rezoning request must be voluntarily offered by an owner of land within the Village. All offers must be made in writing and must provide the specific conditions to be considered by the Village as a part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Village and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.
 - (b) Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.
 - (c) Conditional rezoning shall not alter any of the various zoning requirements for the use(s) in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of Article 15 of this Ordinance.
 - (d) 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 13 of this Ordinance.
 - (e) All conditions offered by a land owner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.
 - (f) In addition to the informational requirements provided for in Section 16.02.02 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, that may show the location, size, height or other measures for and/or of buildings, structures,

improvements and features, including natural features on, and in some cases adjacent to, the property that is 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 Village. 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.

16.06.03 Time Limits and Reversion of Land to Previous District.

- (a) If the proposed conditions of rezoning are acceptable to the Village, the Village may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property shall revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in Section 16.02 of the Zoning Ordinance.
- (b) Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning shall be binding upon the subject property owner, their heirs, successors, assigns, and transferees.
- (c) Upon approval of a conditional rezoning, a copy of the written agreement between the property owner and Village shall be filed with the Monroe County Register of Deeds, which shall act to provide notice to all subsequent owners of the property of the conditions approved and agreed to by the Village.
- (d) The Village may not add to or alter any conditions approved as a part of a rezoning during the time period specified above.
- (e) The time limits specified and approved by the Village may be extended upon the application of the landowner and approval of the Village.

16.06.04 Review Procedures. The factors found in Section 16.04 of this Ordinance must be considered in any conditional rezoning request.

Section 16.07 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 Village Council and published, without necessity of a public hearing.