



Memorandum

TO: City of Hartford Planning Commission
FROM: Hillary Taylor, NCI, Senior Planner
Ethan Senti, Assistant Planner
SUBJECT: Conditional Rezoning – Criteria and Draft Ordinance Language
DATE: October 20, 2025

The purpose of this memo is to outline the function and benefits of conditional rezoning compared to regular rezoning, recommend evaluation criteria for both processes, and solicit feedback from the Planning Commission.

BACKGROUND: STANDARD REZONING VS. CONDITIONAL REZONING

In the regular rezoning process, requests are evaluated based on established criteria in the Zoning Ordinance. Once approved, the property may be used for any permitted use within the new district, regardless of the applicant's original stated intentions. This rezoning "runs with the land," meaning the new zoning classification applies permanently to the parcel, even if ownership changes, and all permitted uses in the district remain available.

A conditional rezoning is an additional tool, authorized by the Michigan Planning Enabling Act, which allows an applicant to voluntarily place conditions on the rezoning (such as limiting permitted uses, restricting building locations, or providing buffers). Like a regular rezoning, a conditional rezoning also runs with the land. However, the parcel is limited to the specific conditions agreed upon at the time of rezoning, providing long-term assurance to the community about how the site may develop. *A conditional rezoning can only be initiated by the applicant.*

The purpose of this tool is to give applicants a pathway to rezoning approval in cases where a full rezoning may not be supported by the Planning Commission. By tailoring their request to a specific project and offering conditions that address potential impacts, applicants can increase the likelihood of approval while providing the community with safeguards against undesirable outcomes. More simply, conditional rezoning balances private development goals with public interests: the applicant gains the ability to move forward with a project that might otherwise be denied, and the community gains predictability and trust in the long-term outcome.

Standard and conditional rezoning ordinance processes and requirements fall within the zoning ordinance, and can be addressed as part of this Zoning Ordinance update process.

RECOMMENDED CRITERIA

Standard Rezoning

For a typical rezoning, it's recommended that the Planning Commission and City Council evaluate the request based on the following criteria:

- Consistency with the goals and policies of the Master Plan.
- Compatibility of the site's geographic and environmental features.



- Evidence the applicant cannot receive a reasonable return on investment for their property under the current zoning.
- Compatibility of all the potential uses allowed in the proposed zoning district with the surrounding uses.
- Capacity of the City's utilities, services, and street network to safely accommodate the uses permitted in the proposed zoning district.
- Boundaries of the requested rezoning district are reasonable in relationship to surroundings.
- Construction on site will meet the dimensional regulations of the proposed district.
- If a rezoning is deemed appropriate, the requested district is most appropriate—there is no other district that would be more appropriate.
- If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
- The requested district will not create an isolated or incompatible zone in the neighborhoods (avoid “spot” zoning).

These criteria ensure the rezonings are compatible with surrounding uses and include checks to be sure that a rezoning is the best solution to the applicant's perception of their property's district misalignment.

Conditional Rezoning

In evaluating conditional rezoning requests, the Planning Commission should first apply the standard rezoning criteria to evaluate whether the request is generally appropriate. If it is deemed appropriate but in need of additional safeguards warranting a conditional rezoning, a conditional rezoning agreement is required. This agreement should contain the following elements:

- A statement acknowledging that the conditional rezoning was initiated by the applicant and that the City would not have granted the rezoning but for the additional conditions.
- Agreement that the use/development of the property will not violate the agreed upon conditions.
- Agreement that the proposed conditional rezoning will run with the land.
- Details on expiration if development does not commence within a designated period.
- Confirmation that every condition in the agreement is necessary, reasonable, and directly tied to the impacts of the rezoning, considering the new zoning district and proposed use.
- A precise legal description of the property subject to the rezoning.
- Specification of development standards modified or governed by the conditions (density, setbacks, height, lot coverage, signage, parking, architecture, lighting, landscaping, etc.).
- A revocation clause, stating that if the developer violates the agreement, approval may be revoked and the property will revert to its previous zoning.
- An optional detailed rezoning plan as an attachment (prepared by the applicant and approved by City Council after Planning Commission recommendation) that supplements, but does not replace, the standard requirements for site plan, subdivision, condominium, or special land use approval.

The full proposed criteria and language for these sections is included in the next section of this memo. Content referenced above is highlighted in red.



PROPOSED ORDINANCE LANGUAGE

Criteria for Amendment of the Official Zoning Map.

In considering any petition for an amendment to the official zoning map, including the designation of street type (A, B, and C) and designation of small front setback lots, the Planning Commission and City Council shall consider any of the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Council may also take into account other factors or considerations that are applicable to the application but are not listed below.

- A. Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
- B. Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
- C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning.
- D. 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.
- E. The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the City.
- F. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- G. The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- H. If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.
- I. If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
- J. The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

Re-application.

Whenever an application for an amendment to this Ordinance has been denied by the City Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of 180 days, unless the Planning Commission determines that one or more of the following conditions has been met:

- A. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.
- B. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.



C. The new application is materially different from the prior application.

Protest Petition.

An amendment under this Chapter is subject to a protest petition in accordance with Section 403 of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), summarized as follows:

A. Petition Submittal Requirements. The protest petition shall be presented to the city clerk and forwarded to the city council before final legislative action on the amendment, and shall be signed by one or more of the following:

1. The owners of at least 20% of the area of land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area.
2. The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area.

B. Vote. If a protest petition is filed, approval of the amendment to this Ordinance shall require a 2/3 vote of the City Council.

Rezoning With Conditions.

Pursuant to MCL 125.3405, the City Council, following a public hearing and recommendation by the Planning Commission, may approve a petition for a rezoning with conditions requested by a property owner. The standards of this section shall grant a property owner the option of proposing conditions for the development and use of property in conjunction with an application for rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

A. Conditional Rezoning Agreement. The conditions attached to the rezoning shall be set forth by submitting a conditional rezoning agreement listing the proposed conditions. A conditional rezoning agreement shall contain the following information:

1. A statement acknowledging that the rezoning with conditions was proposed by the applicant to induce the City to grant the rezoning, and that the City relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the conditional rezoning agreement; and, further agreement and acknowledgment that the conditions and conditional rezoning agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the City.
2. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the conditional rezoning agreement.
3. Agreement and understanding that the approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
4. The date upon which the rezoning with conditions becomes void, as specified in Section C, below. If an extension of approval is granted by the City Council, a new conditional rezoning agreement with the new expiration date shall be recorded.
5. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section C, below, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
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 rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

7. A legal description of the property affected by the rezoning with conditions.

8. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, lighting, landscaping etc.

9. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

10. A conditional rezoning agreement may contain a conditional rezoning plan as an attachment, with such detail and inclusions proposed by the applicant and approved by the City Council in accordance with this Section, following recommendation by the Planning Commission. Inclusion of a conditional rezoning plan as an attachment to a conditional rezoning agreement shall not replace the requirement for preliminary and final Site Plan, subdivision, condominium, or special land use review and approval, as the case may be.

B. Amendment. A proposed amendment to a conditional rezoning agreement shall be reviewed and approved in the same manner as a new rezoning with conditions.

C. Period of Approval. Unless extended by the City Council for good cause, the rezoning with conditions shall expire following a period of two (2) years from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the City commences within the two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.

1. Expiration. In the event bona fide development has not commenced within two (2) years from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect. The landowner may apply for a one (1) year extension one (1) time. The request must be submitted to the City Clerk before the two (2) year time limit expires. The landowner must show good cause as to why the extension should be granted.

2. Effect of Expiration. If the rezoning with conditions becomes void in the manner provided in this section, either or both of the following actions may be taken:

a. The property owner may seek a new rezoning of the property; and/or

b. Pursuant to MCL 125.3405, the land shall revert to its former zoning classification following the process for approval of a rezoning with conditions.

D. Zoning Map. If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned accompanied by a reference to "CR Conditional Rezoning." The Zoning map shall specify the new zoning district plus a reference to CR. By way of example, the zoning classification of the property may be "C-2 Downtown Mixed Use District with CR Conditional Rezoning," with a Zoning Map designation of "C-1 CR."

E. Review and Approval Process. An application for a rezoning with conditions shall be reviewed following the same process and procedures applicable to a rezoning set forth in Section 6.802, with the exception that the conditional rezoning agreement shall be executed between the applicant and the City Council at the time of City Council approval of a rezoning with conditions.



F. Recordation of a Conditional Rezoning Agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, and after the conditional rezoning agreement is recorded with the County Register of Deeds.

G. Violation of Conditional Rezoning Agreement. If development and/or actions are undertaken on or with respect to the property in violation of the conditional rezoning agreement, such development and/or actions shall constitute 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 curative 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.

FEEDBACK REQUESTED

The Planning Commission is asked to review the proposed criteria and ordinance language outlined above and provide feedback on the following:

- Whether the recommended criteria for standard and conditional rezonings are clear and appropriate.
- Whether the sample ordinance language aligns with the City's objectives.
- Any additional considerations or refinements the Commission feels should be included.

Your input will guide further refinement of the proposed ordinance.

Sincerely,

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