

**Vergennes Township  
Kent County**

Ordinance # 2007-3  
Adopted 11-19-07

**AN ORDINANCE TO AMEND CHAPTER 9, SECTION 201.900 AMENDMENTS AND SUPPLIMENTS, OF THE VERGENNES TOWNSHIP ZONING ORDINANCE.**

**VERGENNES TOWNSHIP HEREBY ORDAINS:**

**Section 1. Amend section 201.902 to add a new section for conditional rezoning agreements to read as follows:**

**CHAPTER 9**

**201.900 AMENDMENTS AND SUPPLEMENTS**

**201.901 Ordinance Adoptions.**

9.01. Amendments and supplements to this Ordinance may be adopted by the Township Board as provided by law.

**201.902 Conditional rezoning agreements.**

9.02.

- A. Any person affected by this Ordinance may submit a petition in writing to the secretary of the Planning Commission requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition.
- B. *Purpose.* It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with the Michigan Zoning Enabling Act, PA 110 of 2006, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and development of land as part of the rezoning request.

C. *Application and offer of conditions.*

1. Any interested property owner may voluntarily offer in writing, and the Township may approve, certain conditions relating to the “use conditions” and “development conditions” of the land as conditions to a rezoning of the land. The use conditions and the development conditions are sometimes collectively referred to as the “conditions”.
2. *Application Procedure.*
  - a. If the applicant wishes to submit an offer of conditions or restrictions along with a petition to rezone land, the applicant shall do so in writing. Proposed conditions shall be stated clearly, as determined by the Zoning Administrator. The offer of conditions shall be received with the application to rezone the land, except as provided in subparagraph d hereof.
  - b. The applicant may request a pre-application meeting, in which the Zoning Administrator and other Township officials may identify concerns reasonably related to the rezoning request. The Township shall not require the applicant to offer conditions as a prerequisite for rezoning nor shall the presentation of an offer of conditions create any obligation on the part of the Township to rezone any land.
  - c. Vergennes Township shall not add to, alter, or augment the offer of conditions or restrictions.
  - d. The offer of conditions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. However, if an offer of conditions is proposed by the applicant in writing at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Township time to consider the offer; and if a written offer of conditions is proposed by the applicant at a Township Board meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
  - e. The Planning Commission or Township Board may table a request to give residents of the Township more time to fully understand the offer of conditions.

- f. The offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- g. The applicant's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- h. Any use or development proposed as part of an offer of conditions that would require a special use permit, variance, and/or site plan approval under the terms of this Ordinance may only be commenced if granted in accordance with the provisions of this ordinance.

D. *Standards of approval for conditional rezoning.*

- 1. When reviewing a rezoning request and an offer of conditions, the Township may consider, but shall not be limited to, consideration of the following: future land use recommendations in the Master Plan; goals and objectives in the Master Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
- 2. Offers of conditions shall not be approved if such conditions would have the effect of departing from the standards of the Zoning Ordinance or other regulations or ordinances promulgated by or applicable in Vergennes Township.
- 3. When considering an offer of conditions, the Township may determine whether the conditions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

E. *Expiration of agreement, reversion and extensions.*

- 1. In approving the conditions, the Township may establish a time period during which the development conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the development conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, per subparagraph 4 hereof.
- 2. The Township shall not add to or alter the approved conditions during the time period specified under subparagraph 1.
- 3. The time period specified under subparagraph 1 may be

extended upon the application of the property owner and approval of the Township.

- a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his/her recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being solicited.
  - b. Upon recommendation of the Planning Commission, the Township Board may extend the time period specified under subparagraph 1. If the extension is approved, but the development conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, per subparagraph 4.
4. If the development conditions are not satisfied within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall establish that the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and recommend to the Township Board that it determine that the land will revert back to its former zoning classification. If the Township Board determines that the land shall revert to its former zoning classification, and adopts that recommendation, thereafter, the owner may initiate a new rezoning of the property subject to all conditions of Section 201.902 (C), (F) and (G).

F. *Coordination and performance bonds.*

1. Where proposed conditions involve public improvements, the applicant shall submit the following to the Township prior to final approval of the rezoning and offer of conditions:
  - a. A construction schedule.
  - b. Costs and obligations.
  - c. Responsible parties for obtaining permits.
  - e. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
  - f. The Township may require submission of performance bonds or similar tools as part of the agreement or

approval.

2. *Recording.*

- a. If the Township finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and the Township, and conforming to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- b. The Statement of Conditions shall:
  - (1) Be in a form recordable with the Kent County Register of Deeds.
  - (2) Contain a legal description of the land to which it pertains.
  - (3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - (4) Incorporate by attachment any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions.
  - (5) Contain the notarized signature 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.
  - (6) Contain a statement as to when the conditions must be met, unless extended, and that a failure to meet the conditions by such date will result in the property reverting back to its original zoning classification.
- c. 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 Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

3. *Amendment of Conditions.*
  - a. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township Board shall not add to or alter the conditions in the Statement of Conditions.
  - b. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for in the original rezoning and statement of conditions.
  
4. *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.
  
- G. *Violation.* Any failure to comply with a use condition shall constitute a violation of this ordinance and such violation may be enforced as described in this ordinance (Chapter 6).

(Adopted: Ord. No. 2007-0, 0-00-00)

**Section 2. Conflicts.** If any provision of the Vergennes Township Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall be applied.

**Section 3. Severability.** Should any section or part of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts of this Ordinance.

**Section 4. Effective Date.** This Ordinance shall become effective eight (8) days after its publication in a newspaper of general circulation in the Township.

VERGENNES TOWNSHIP

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Timothy Wittenbach, Supervisor

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mari Stone, Clerk

Date Published: \_\_\_\_\_

