

VILLAGE OF PENTWATER
COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 South Hancock Street, Pentwater, Michigan, on the 10 day of June, 2019, at 6:00 p.m.
Members Present: Burdick, Griffis, Nugent, Palmer, Ressel-Hodan and Hodges.

Members Absent: Angell-Powell.

The following ordinance and preamble were offered by Member Palmer and supported by Member Nugent:

ORDINANCE NO. 99-8-2019-03

**AN ORDINANCE TO AMEND THE VILLAGE OF
PENTWATER'S ZONING ORDINANCE**

WHEREAS, the Village Council of the Village of Pentwater has determined that it would be in the best interest of the Village to adopt a zoning ordinance adding "Chapter 20 - Rezoning and Zoning Ordinance Text Amendments" to the Village of Pentwater Zoning Ordinance;

WHEREAS, the Village Council of the Village of Pentwater has determined that it is appropriate to renumber Section 19.20 of the Village of Pentwater Zoning Ordinance governing the conditional rezoning of property to be Section 20.06;

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. The Village of Pentwater Zoning Ordinance is hereby amended to add "Chapter 20 - Rezoning and Zoning Ordinance Text Amendments."

Section 2. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.01, which shall read as follows:

Section 20.01. Zoning Amendment Initiation. An amendment to the zoning district boundaries contained on the official Zoning Map (rezoning) may be initiated by the Village

Council, Planning Commission, or by the owner or owners of property that is the subject of the proposed rezoning. An amendment to the text of this Ordinance may be initiated by the Village Council, Planning Commission, or by petition of one (1) or more property owners of the Village.

Section 3. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.02, which shall read as follows:

Section 20.02. Rezoning and Zoning Ordinance Text Amendment Application Procedure.

A. Application Information for Amendments. An amendment to the official Zoning Map or to the text of the Village of Pentwater Zoning 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. The application shall explicitly describe the proposed amendment and shall be signed by the applicant.

B. 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:

- (1) 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 information required by the Planning Commission;
- (2) 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;
- (3) the existing and proposed zoning district designation of the subject property;
- (4) a written description of how the requested rezoning meets Section 20.04 Criteria for Amendment of the Zoning Map (Rezoning); and
- (5) at the Planning Commission's discretion, the following additional information may be required:
 - (a) 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, relationship to other developed sites, and access points in the vicinity;

- (b) 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;
- (c) 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; and/or
- (d) the site shall be staked to clearly indicate the location of the requested amendment, and flagged stakes shall be placed at each parcel corner.

Section 4. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.03, which shall read as follows:

Section 20.03. Rezoning and Zoning Ordinance Amendment Process.

A. 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.*

B. 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 a proposed amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the criteria contained in Section 20.04 Criteria for Amendment of the official Zoning Map (Rezoning), below, in making its findings and recommendation to the Village Council. In the case of a proposed amendment to the text of this Ordinance, the Planning Commission shall consider the criteria contained in Section 20.05 Criteria for Amendment of the Official Zoning Ordinance Text, below, in making its findings and recommendation to the Village Council.

C. Village Council Review and Action. Following receipt of the findings and recommendation of the Planning Commission, the Village Council shall consider the proposed Zoning Map or text amendment. In the case of an amendment to the text of this 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.

D. Notice of Adoption. Following adoption of a Zoning Map or text amendment by 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.*

E. Resubmittal. No petition for rezoning or 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 and material evidence or substantial proof of changed conditions.

Section 5. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.04, which shall read as follows:

Section 20.04. Criteria for Amendment of the 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:

A. Consistency with the goals, policies, and future land use guidelines of the Village of Pentwater 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;

B. Compatibility of the site's physical, geological, hydrological, and other environmental features with the potential uses allowed 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. 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;

E. 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 residents;

F. 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

G. 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 6. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.05, which shall read as follows:

Section 20.05. 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 to the text of this Ordinance:

- A. Compatibility with the basic intent and purpose of the Ordinance;
- B. Consistency with the goals, objectives, and future land uses of the Village of Pentwater Master Plan, including an sub-area or corridor studies;
- C. The requested amendment will correct an error and/or clarify an ambiguity in the Ordinance;
- D. The requested amendment will resolve an inequitable situation created by the Ordinance and does not grant special privileges;
- E. The requested amendment will not result in unlawful exclusionary zoning;
- F. 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;
- G. The requested amendment will address changes in state or federal legislation or regulations or other Village ordinances;
- H. The requested amendment will resolve potential legal issues or administrative problems with the Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan;

Section 7. Conditional Rezoning. Section 19.20 of the Village of Pentwater Zoning Ordinance is renumbered to be Section 20.06.

Section 8. The Village of Pentwater Zoning Ordinance is hereby amended to add and adopt Section 20.07, which shall read as follows:

Section 20.07. 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.

Section 9. Should any section, clause, or paragraph of this ordinance be declared by a court of

competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole or part of it other than the part declared to be invalid.

Section 10. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 11. This ordinance will become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES:6 Members:Burdick, Griffis, Nugent, Palmer, Ressel-Hodan and Hodges.

NAYS:0 Members:

ABSENT:0 Members:Angell-Powell

ORDINANCE DECLARED ADOPTED.

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman, Village Clerk
Village of Pentwater