

ORDINANCE NO. 9, 2017
AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 18, SECTION 10-133
ENTITLED CONDITIONAL REZONING AGREEMENT.

WHEREAS, The Common Council for the City of Attica, desires to amend Charter 10, Article 18 by the inclusion of Section 10-133.

NOW THEREFORE, Chapter 10, Article 18, Section 10-133 shall be amended to include the following provisions:

1. Any person wishing to rezone real estate may submit a petition in writing to the Area Planning Commission requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition.
2. *Purpose.* It is recognized that there are certain instances where it would be in the best interest of the City, 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 by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and development of land as part of the rezoning request.
3. *Application and offer of conditions.*
 - a. Any interested property owner may voluntarily offer in writing, and the City 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”.
 - b. *Application Procedure.*
 - i. 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. The offer of conditions shall be received with the application to rezone the land, except as provided in subparagraph d hereof.
 - ii. 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 City time to consider the offer.
 - iii. The Planning Commission may table a request to give residents of the City more time to fully understand the offer of conditions.
 - iv. The offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - v. The applicant’s offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

- vi. 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.

4. *Standards of approval for conditional rezoning.*

- a. When reviewing a rezoning request and an offer of conditions, the Area Plan Commission 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.
- b. 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 the City of Attica.
- c. When considering an offer of conditions, the Area Plan Commission may determine whether the conditions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

5. *Recording.*

- a. If the City 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 City. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City in the ordinance which rezones the real estate.
- b. 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.

IT IS FURTHER ORDAINED that this Ordinance be in full force and effect from and after its adoption by the Attica Common Council.

This Ordinance is adopted by the Common Council for the City of Attica this _____ day of _____, 2017, by a vote of _____ for and _____ against.

Sponsoring Council Member

ATTEST:

Susan Stoll, Clerk-Treasurer

Duane Roderick, Mayor

ATTEST:

Susan Stoll, Clerk-Treasurer