Article 28: Administration, Enforcement, and Amendments

Section 28.01 Intent and Purpose

A. This article is intended to prescribe the procedures, requirements, and standards relevant to the administration of this Zoning Ordinance. It establishes the application procedures, standards of approval of zoning permits, procedures for public hearings, and amendments to the text of the Ordinance and the Zoning Map.

B. The administration and enforcement of this Ordinance shall be the responsibility of the Zoning Administrator and City Council. The Administrator and Council shall have the right to delegate said responsibility to appropriate City officers or employees. The person administering and enforcing this Ordinance shall be known as the Zoning Administrator. The Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

C. This Article further provides for procedures in the enforcement of the Zoning Ordinance in addressing violations, in order to ensure compliance with its provisions and to carry out its purpose in a consistent, orderly, and legally defensible manner, including the ability for the City to collect escrows and financial guarantees to ensure quality completion of projects approved in accordance with the provisions of this Ordinance.

Section 28.02 Duties of the Zoning Administrator

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and shall perform the following duties:

A. Examine, record, and file all applications for zoning permits, with any accompanying plans and documents, and to issue such permits only for lots, uses and structures which are in conformity with the provisions of this Ordinance.

B. Receive, investigate, and process all complaints and to notify persons of any violations of provisions of this Ordinance in accordance with Section 28.07 of this Article.

C. Conduct inspections of property for which zoning permits have been issued to ensure the use or activity is in conformance with the provisions of the zoning permit and this Ordinance.

D. The Zoning Administrator is under no circumstances permitted to grant exceptions to the requirements of this Ordinance.

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E. The Zoning Administrator is under no circumstance permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties described herein.

F. Decisions or determinations made by the Zoning Administrator may be appealed to the Zoning Board of Appeals, in accordance with the procedures outlined in Article 29, Zoning Board of Appeals.

Section 28.03 Zoning and Building Permits

A. When Required.

1. A zoning permit shall be required prior to the excavation, erection, moving, alteration, demolition, moving, reconstruction, extension, enlarging, or the changing of building use, land use, or structure on any property within the City of Douglas.
2. A zoning permit shall be required prior to the commencement of any work permitted by the Planning Commission's approval of a site plan for any type of development.
3. A zoning permit shall not be required for typical maintenance of repairs which do not require a building permit.
4. A zoning permit shall not be required for the interior remodel of a structure unless the use of such structure is intended to change.

B. Application Procedures.

1. To apply for a zoning permit, the applicant shall submit an application on the prescribed form and a sketch plan, as defined in Article 2 of this Ordinance, to the Zoning Administrator along with all required fees.
2. Such zoning permit application shall include the following information:
   a. Name, mailing address, phone number, and e-mail address of the property owner.
   b. Name, mailing address, phone number, and e-mail address of the applicant, if not the property owner.
   c. Address and parcel number of the subject parcel where the work or activity is proposed.
   d. Description of proposed work or activity.
3. When required by the Ordinance, a site plan and other information shall accompany the application. For applications in which a site plan is required, a sketch plan shall not be required.
4. The sketch plan shall consist of a drawing on a sheet of paper no smaller than 8-1/2" x 11", prepared by the applicant and showing the following elements, unless determined by the Zoning Administrator that one or more of the elements is not applicable:

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a. Dimensions of the subject parcel.

b. Length of frontage on public or private streets or roads.

c. Location and size (exterior "footprint" and height) of all existing and proposed buildings, structures, and parking areas and their distance from each other and the lot lines.

d. The use of the parcel and existing or proposed buildings.

e. The distance of all existing or proposed building from other buildings, lot lines, bodies of water, road rights-of-way, or easements.

f. Driveway location, dimensions, and specifications.

g. Septic tank and/or well location as applicable

h. Other information as necessary to determine compliance with the Zoning Ordinance, including, but not limited to:

(1) Recorded easements and rights-of-way

(2) Grading plan

(3) Drainage plan

5. Duration of Approval.

a. A zoning permit shall be valid for a period of one (1) year from the day of issuance.

b. The terms of a zoning permit maybe extended by the upon request by the applicant within thirty (30) days of the expiration, if sufficient progress, at the determination of the Zoning Administrator, is made toward completion of the improvement or activity under which the zoning permit was granted.

C. Issuance of Zoning Permit.

1. No permit shall be granted by the Zoning Administrator for any purpose except in compliance with the provisions of this Ordinance or, upon appeal, in compliance with a decision of the Zoning Board of Appeals.

2. If the proposed activity described in Section 28.03.A., as set forth in the application and sketch plan or site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Permit.

3. If an application for such permit is denied, the Zoning Administrator shall state in writing the cause for such denial.

4. Issuance of a Zoning Permit shall in no case be construed as waiving any provisions of this Ordinance.

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5. The Zoning Administrator shall inform the applicant prior to granting approval of a Zoning Permit, if the proposed use or activity would first require a special land use approval, variance, or site plan approval by the Planning Commission.
6. The Zoning Administrator shall withhold any Zoning Permit issuance until applicable required local, county, state or federal agency permits or approvals have been issued.
7. A zoning permit for a new residential dwelling unit shall not be issued until water and sewer fees and permits have been paid, when applicable.
8. A financial guarantee in accordance with Section 28.04 of this Article may be required at the discretion of the Zoning Administrator.
9. Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

D. Wall Survey.

1. At the discretion of the Zoning Administrator the completion of walls being poured for any new or expanded structure for which a zoning permit is issued, the applicant shall provide a wall survey prepared by a licensed surveyor which demonstrates that the applicable dimensional requirements have been met.
2. No construction beyond foundation walls shall be allowed until the Zoning Administrator verifies setback requirements have been satisfied.

E. Effect of Approval.

1. A zoning permit granted under this Section shall expire after twelve (12) months from the date of granting such permit unless significant progress has been made toward commencing the activity permitted by the zoning permit, as determined by the Zoning Administrator.
2. The applicant may request an extension of the validity of the zoning permit upon demonstration that progress described in E.1. of this Section is provided to the Zoning Administrator within ten (10) days prior to the expiration of said zoning permit.

F. Revocation of Zoning Permit.

1. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance or in the case of any false statement or misrepresentation made in the application.
2. The property owner or their agent (when applicable) shall be notified of such revocation in writing.

G. Reapplication.

1. No application for a zoning permit which has been denied, in whole or in part, by the Zoning Administrator may be resubmitted for a period of twelve (12) months from the

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date of the denial, except on the grounds of newly discovered evidence, which significantly changes the variables of the application.

Section 28.04 Fees, Financial Guarantees and Escrow Accounts

A. Fees.

1. The City Council shall periodically establish by resolution a schedule of fees and escrow amounts to be paid by applicants for any permit, certificate, approval, application, or appeals required by this Ordinance.
2. All fees shall be paid to the City of the Village of Douglas.
3. The fee and escrow schedule shall be posted on the City's website and may be changed only by resolution of the City Council.
4. No permit, certificate, approval, application, hearing, or appeal shall be issued or considered unless and until the fees and escrow amounts therefor have been paid in full.
5. Payment of the required fees and escrow shall be a condition precedent to the validity of any permit, certificate, or approval.

B. Escrow Policy.

1. The escrow amounts set by the fee schedule shall reimburse the City for costs it incurs for the review and professional expertise in ensuring applications for development or other land use activity are in compliance with this Ordinance.
2. Escrow accounts shall be administered and kept in good standing in accordance with the City's adopted Escrow Policy (Resolution No. 01-2023).

C. Performance Guarantees.

1. In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the health, safety, and welfare of the residents of the City, and future users or inhabitants of an area for which a site plan for a proposed use, structure, or other improvement has been submitted, the Zoning Administrator, Planning Commission, Zoning Board of Appeals or City Council may require the applicant to deposit a performance guarantee with the City as set forth herein.
2. The purpose of the performance guarantee is to ensure quality completion of improvements connected with the zoning or site plan approval in accordance with this Ordinance, related to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping, and other similar site elements.
3. Performance guarantees may also be required as a condition of approval for land uses that may be temporary in nature and where the reclamation or restoration of a site to an acceptable condition will be needed.

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4. The term performance guarantee, as defined in Article 2, shall mean a cash deposit, certified check, surety bond, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator or their designee. All performance guarantees shall be subject to approval by the City.
5. When a performance guarantee is required, said performance guarantee shall be deposited with the City prior to the issuance of a zoning permit by the Zoning Administrator for the development and use of the land.
6. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the City to permit the City to enter upon the subject property to complete the improvements at the cost of the applicant, in the event of default by the applicant.
7. An approved site plan, zoning permit, or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the zoning permit for said improvement(s).
8. Upon the satisfactory completion of the improvement for which the performance guarantee as required, and as determined by the Zoning Administrator, the City shall reimburse the applicant the performance guarantee deposited.
9. Use of Funds.
    a. In the event the applicant defaults in making the improvements for which the performance guarantee was required, and within the time period established by the City, the City shall have the right to use the funds provided from the performance guarantee, and any interest earned thereon, to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements.
    b. If the performance guarantee is not sufficient to allow the City to complete the improvements for which it was posted, the applicant shall be required to pay the City the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited.
    c. Should the City use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City administrative costs in completing the improvement with any balance remaining being refunded to the applicant.
    d. At the time the performance guarantee is deposited with the City and prior to the issuance of a zoning permit, the applicant shall enter an agreement incorporating the provisions hereof with the City regarding the performance guarantee.

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Section 28.05 Public Hearing Notice Requirements

A. An application or request for approval of a special land use, variance, Zoning Ordinance text or map amendment, or any other applications requiring a public hearing under the provisions of this Ordinance and/or the Michigan Zoning Enabling Act (MZEA, Act 110 of 2006, as amended), the public shall be notified in the following manner:

1. The notice of public hearing shall include the following information:
    a. The applicant's name.
    b. A description of the nature of the application or request.
    c. An identification of the address and permanent parcel number (PPN) that is the subject of the application or request.
    d. The date, time, location, and address where the public hearing will be held.
    e. An indication of the place and the times when the application for the request may be examined, as well as a website address if the application can be viewed online.
2. The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the City.
3. Except as provided in Section 28.05.E of this Article, a notice of public hearing shall also be mailed first class or hand delivered to the following parties at least fifteen (15) days prior to the date of the public hearing:
    a. The applicant;
    b. All persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the application or request;
    c. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application or request.
    d. If the above described three hundred (300) feet radius extends outside of the City's boundaries, then notice must be provided outside of the City boundaries, within the three hundred (300) foot radius, to all persons in the above stated categories.
    e. When a proposed rezoning involves eleven (11) or more adjacent properties, or if an amendment is proposed to the text of this Ordinance, the mailing or delivery requirements of Section 28.05.C. of this Article are not required.

Section 28.06 Amendments

A. The zoning map shall be considered an integral component of the Zoning Ordinance document. Both the text of this Ordinance and the zoning map, in the case of a rezoning request, may be amended or supplemented from time to time in accordance

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with the Zoning Enabling Act (Act 110 of 2006, as amended), and in accordance with the provisions in this Section.

B. Purpose.

1. The purpose of this Section is to establish the procedures and requirements for amending the text of this Ordinance and zoning map.
2. The procedures and requirements in this Section are intended to ensure the following:
    a. That the review and decision on proposed amendments are of a fair, consistent, and transparent manner
    b. That proposed changes are evaluated for their impact on the public health, safety, and welfare;
    c. That amendments remain consistent with the goals, policies, and future land use recommendations of the City of the Village of Douglas Master Plan.
3. It is not intended for this Ordinance to be amended, except under the following circumstances:
    a. To correct an error in the text of the Zoning Ordinance or map;
    b. To respond to current trends and changing conditions in a particular area in the City generally;
    c. To implement the goals and vision of the City's Master Plan;
    d. To create consistency between the text of the Zoning Ordinance and the General Code of Ordinances;
    e. To further protect the environment, neighborhoods, public infrastructure or other public investment in the City; or
    f. To assign a zoning designation to land or territory annexed under Section 16.05 of this Ordinance.

C. Initiation of Amendments.

1. Proposals for amendments or changes may be initiated by the following parties:
    a. The City Council;
    b. The Planning Commission;
    c. City staff;
    d. Any person demonstrating legal interest in a property located in the City of the Village of Douglas;
    e. Any person residing in the City of the Village of Douglas;
    f. Any person owning property in the City of the Village of Douglas; or

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g. An authorized agent of a person owning property in the City of the Village of Douglas.

D. Applications for Amendments

1. Zoning Text Amendments. All applications for a text amendment to this Ordinance shall be in writing, signed, and filed with the Zoning Administrator for presentation to the Planning Commission. The submission of such petition shall include the following:

   a. A completed application form supplied by the City

   b. The petitioner's contact information, including name, mailing address, phone number, and e-mail address.

   c. A detailed narrative describing the purpose of the proposed amendment.

   d. A fee, as established by the fee schedule, as amended from time to time, by the City Council.

   e. The Article and Section number that is requested to be amended, and include suggested language for the proposed change to the zoning text.

2. Zoning Map Amendment. An application shall be submitted which shall include the following information:

   a. Information as required in Section 28.06.A.2 a through c.

   b. Legal description of the subject parcel(s).

   c. The existing zoning district and the proposed zoning district for the subject parcel(s).

E. Procedures for all Proposed Amendments.

1. Complete applications shall be submitted at least thirty (30) days prior to the meeting of the Planning Commission for which the proposed amendment is planned for the agenda.

2. The Zoning Administrator, or their designee, shall schedule a public hearing of the Planning Commission and shall notice the public in accordance with Section 28.05 of this Article.

3. The Planning Commission shall hold a public hearing and allow for public comment on the proposed amendment(s), and shall prepare a report, which shall include a summary of comments made at the public hearing, findings, and a recommendation to the City Council, for the approval (with or without conditions), denial, or postponement of action on the proposed amendment, based on the factors listed in Section 28.06.F.

4. The City Council shall then hold a meeting in consideration of the proposed amendment based on the recommendation and findings noted in the report

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forwarded by the Planning Commission, and in consideration of the factors listed in Section 28.06.F.

5. If the City Council determines that the proposed amendment should be modified or rejected, the application for the proposed amendment shall be referred back to the Planning Commission for consideration and for comments within a time specified by the City Council. The Planning Commission shall then consider making a new recommendation to the City Council for the proposed amendment.
6. If the City Council adopts the amendment, it shall do so in the manner prescribed in the City's Charter and in the Michigan Zoning Enabling Act (Act 110 of 2006, as amended), and shall publish the amendment or a summary of the amendment within fifteen (15) days in a newspaper of general circulation.
7. Only the City Council has the authority to amend this Ordinance.

F. Amendment Criteria.

1. In reviewing any application for an amendment to this Ordinance, the Planning Commission shall evaluate the request in consideration of the following criteria:

(a) For all proposed amendments:

(i) What, if any, identifiable conditions related to the application have changed since the existing zoning district was established which justify the proposed amendment?

(ii) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the amendment petition?

(iii) What is the impact of the amendment on other regulations within the Zoning Ordinance?

(b) For map amendments:

(i) Does the petitioned district change adversely affect environmental conditions, or the rights of a neighboring property owner?

(ii) Is the range of uses by-right and special uses permitted in the proposed zoning district appropriate for the location proposed to be rezoned?

(iii) Will the range of permitted by-right and special uses cause any incompatibility with current land uses?

(iv) Does the petitioned map amendment generally align with the zoning plan in the Future Land Use chapter of the Master Plan in terms of compatible zoning district?

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(v) Does the current zoning district serve a legitimate purpose and is it reasonably usable under the current zoning?

(vi) Is there is sufficient capacity of public services provided by the City of (police, fire, municipal water, sanitary sewer, storm sewer, and streets) to serve the range of uses permitted in the proposed zoning district?

2. In determining whether the criteria in Section 28.06.F(a) and/or (b) are met the Planning Commission may seek comments from the following departments or agencies:

a. Allegan County Health Department

b. Allegan County Road Commission

c. Allegan County Drain Commission

d. City Engineer

e. City Attorney

f. City Planner

g. City of the Village of Douglas Department of Public Works

h. Saugatuck Fire District

i. Saugatuck Public Schools

j. Kalamazoo Lake Sewer and Water Authority (KLSWA)

G. Resubmittal.

1. No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

Section 28.07 Enforcement and Penalties

A. Violations.

1. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of the City of the Village of Douglas Zoning Ordinance, as amended, or any building or structure that is erected, altered, moved, or converted, or any use of premises or land that has commenced or changed that does not comply with the provisions of the, after the date of adoption of this Ordinance, is a violation, and is hereby declared to be a public nuisance per se, and shall be abated in accordance with the procedures outlined in this Section and as specified in Article VII, Municipal Civil Infractions of the City of the Village of Douglas General Code of Ordinances.

2. A violation of this Ordinance constitutes a municipal civil infraction.

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B. Enforcement Procedures.

1. Notice. If the Zoning Administrator finds that any of the provisions of this Ordinance are violated, the property owner shall be notified of such violation in writing via first class mail.
2. The notice letter shall include the following information:
    a. The section number and text of the Zoning Ordinance that is being violated, along with the specific nature of the violation.
    b. The specific order or action necessary to abate the violation, and, if applicable, the order to discontinue uses of land, buildings, or structures that constitute the violation, until such violation has been abated.
    c. A property owner shall be given at least thirty (30) calendar days from the date the letter is sent to abate the violation, unless a greater timeframe has been specified, as determined by the Zoning Administrator.
    d. The letter must indicate a specific date by which the violation must be corrected.

C. Penalties.

1. If the violation cited in the notice described in 28.07.A.2 is not properly abated within the timeframe provided in the letter, the Zoning Administrator, Code Enforcement Officer, or other City Officials as specified in the City of the Village of Douglas Code of Ordinances, may begin the municipal civil infraction citation proceedings as outlined in Article VII, Municipal Civil Infractions, of the City of the Village of Douglas General Code of Ordinances.
2. Each day such violations continue shall be considered a separate offense.

D. Appeals.

1. Any aggrieved person may appeal the Zoning Administrator's determination to find violation or the order to abate by submitting an application to the Zoning Board of Appeals in accordance with the procedures specified in Article 29.
2. The Zoning Board of Appeals shall reverse or affirm the Zoning Administrator's determination in such appeal.

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