

ARTICLE 3

ADMINISTRATION AND ENFORCEMENT

SECTION 301 ADMINISTRATION

The administration and enforcement of this Ordinance shall be the responsibility of the City of Laingsburg City Council (“City Council”) and City of Laingsburg Planning Commission (“Planning Commission”). The City Council shall have the right to delegate said responsibility to appropriate 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 police officer, whose jurisdiction is the enforcement of this Ordinance.

SECTION 302 ACTING IN OFFICIAL CAPACITY

The Zoning Administrator and/or their assigns, Planning Commissioner or employee charged with the enforcement of this Ordinance, while acting in their official capacity on behalf of the City, shall not thereby render herself/himself liable personally, and she/he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her official duties. Any suit instituted against any officer or employee because of an act performed by the officer in the lawful discharge of his duties and under the provisions of the Ordinance shall be defended by the legal representative of the City until the final termination of the proceedings. In no case shall the Zoning Administrator, or assigns, be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance. Any officer acting in good faith and without malice shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of his/her official duties in connection herewith.

SECTION 303 DUTIES OF THE ZONING ADMINISTRATOR

- A. It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform the following duties:
1. The Zoning Administrator is charged with the responsibility of reviewing and approving zoning permits. All applications for zoning permit shall be submitted to the Zoning Administrator. Upon submittal of a complete application, the Zoning Administrator shall have ten (10) business days in which to issue a zoning permit if all applicable provisions of this Ordinance have been complied with or deny if proposed improvements are not in compliance with the Ordinance.
 2. The Zoning Administrator shall maintain files of all applications for zoning permit and shall keep record of all permits issued.

3. The Zoning Administrator shall be empowered to make inspections of structures or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator may seek a search warrant through the City Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
4. The Zoning Administrator shall be empowered to issue appearance summons, seek the issuance of warrants for the arrest of alleged violators through proper legal action and bring civil or criminal action in the name of the City against violators of the regulations and provisions of this Ordinance.
5. The Zoning Administrator shall equally apply the regulations in this Ordinance to all property owners. Enforcement actions may be initiated by a complaint, or by the Zoning Administrator upon identification and verification of a violation.
6. The Zoning Administrator shall keep a record of complaints of violation of any of the provision of this Ordinance and of the action taken consequent to each complaint.
7. The Zoning Administrator shall report to the City Council periodically (but not to exceed one (1) year) and provide a report summarizing zoning permits issued and action taking concerning violations of the Ordinance.

SECTION 304 DUTIES OF THE PLANNING COMMISSION.

- A. As a group of individuals appointed by the City Council, in addition to those responsibilities and duties set forth under Section 2-221 et seq. of the City's Code of Ordinances, it shall be the responsibility of the Planning Commission to perform the following duties:
 1. Recommend and adopt rules and guidelines for the proper administration and enforcement of the Ordinance, including performing a comprehensive review of this Ordinance every five (5) years and recommending action where found appropriate.
 2. Conduct public hearings for issues requiring public hearing before the Planning Commission, review and approve site plans as prescribed in the Ordinance, and review all proposed requests for special land use approval and/or amendments to the Ordinance for compliance with requirements of the Ordinance and recommend appropriate action to City Council for approval, disapproval or modification.
 3. Act as a policy board on matters of enforcement and administration of the Ordinance not covered by adopted rules or guidelines, including opening for

review the City of Laingsburg Master Plan (“Plan”) every five (5) years and draft changes, if deemed necessary, for consideration at public hearing.

SECTION 305 ZONING PERMIT PROCEDURES

- A. It is the intent and purpose of this section to create a review and permit process for the administration of this Ordinance. Such review and permitting process shall involve a written application for proposed improvement and written documentation that such improvement is in compliance with the Ordinance and therefore permitted. This “zoning permit” is subject to the following:
1. The excavation for any structure shall not be commenced; the erection of, addition to, alteration of, or moving of any structure shall not be undertaken; or any land shall not be used, a previous use of land reinstated; or any existing land use expanded or changed to a different type or class; or the use or occupancy of any structure or premises, or part thereof, hereafter shall not be undertaken without the issuance of the proper and appropriate zoning permit.
 2. A zoning permit shall not be issued for those uses requiring special land use approval until a special land use has been approved in compliance with the provisions of this Ordinance.
 3. Except upon written order of the Board of Appeals no such permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.
- B. There shall be submitted to the Zoning Administrator an application for zoning permit. An application for zoning permit is subject to the following:
1. Proof of ownership/equitable title shall be required with any application for a zoning permit in order to establish interest in property and right to proceed.
 2. An application for a zoning permit gives consent for the Zoning Administrator to enter and/or access property for proper inspection prior to issuing permit.
 3. All fees for inspection and the issuance of a zoning permit required under this Ordinance shall be collected by the Zoning Administrator in advance of review and consideration of issuance of the zoning permit. The amount of such fees shall be established by resolution of the City Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
 4. All applications for zoning permit shall require an accurate scale map showing the following:

- a. The location, shape, area, dimensions, legal description(s) of the parcel(s), deed restrictions, location of easements, centerline of street and street right-of-way (or easement).
 - b. The location, setbacks, dimensions, height of the existing and/or proposed structures to be erected, altered or moved on the parcel.
 - c. The existing and intended use of structure(s) and property.
 - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
 - e. Any change to the contour of the parcel involved.
 - f. Identify surface water and waterways.
 - g. Any application where the above information is not provided or is illegible shall be returned to the applicant for revision.
5. The applicant's request for zoning permit must comply with the provisions and regulations of this Ordinance, as well as meet the rules and regulations set forth by other agencies and departments. The Zoning Administrator may withhold any approval of zoning permit pending verification that an applicant has received required local, county, state or federal permits.
- a. In the case of a zoning permit for a dwelling or other building intended for human occupancy, a written report from the Shiawassee County Health Department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service is available or required, a written notice of acceptance of hook-up or a tap-in fee receipt shall be required from the City Department of Public Works ("DPW").

C. Expiration and Revocation of Zoning Permit

- 1. Any permit granted under this Section shall become null and void after one (1) year from the date of granting such permit unless the development proposed shall have passed its first building inspection. Before a zoning permit is declared null and void, the Zoning Administrator shall notify the applicant of the intended action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before the effective date of the declaration. The permit shall be renewable upon reapplication and upon payment of the fee for such proposed improvement and also subject to the provisions of all ordinances in effect at the time of renewal.
- 2. 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 supplication. The owner or his agent shall be notified of such revocation in writing.

- D. Uses and/or structures that have received a zoning permit to implement improvements shall not be commenced or occupied without first receiving a compliance review and approval from the Zoning Administrator for such commencement or occupancy.
 - 1. Compliance review and approval shall be issued by the Zoning Administrator following an inspection that confirms that all requirements of a previously issued and therefore governing zoning permit and this Ordinance have been met.
 - 2. The compliance review and approval is not a Certificate of Occupancy as issued by the Building Inspector pursuant to the State Construction Code. Compliance review and approval precedes issuance of the Certificate of Occupancy.

SECTION 306 PUBLIC NOTICE

- A. All applications for development approval requiring a public hearing and notice shall comply with the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006, as amended, (MCL 125.3101 et seq.), hereinafter referred to as the “Zoning Act” as well as other provisions of this Section and Ordinance.
- B. When the provisions of this Ordinance or the Zoning Act require that notice be published, the City Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City or mailed and delivered as provided herein.
 - 1. All mail, personal and newspaper notices for public hearing shall contain the following information:
 - a. A description of the nature of the request shall be provided, including identifying if the request is for a map or text amendment, a special land use or planned unit development, a variance, appeals or interpretation or for some other purpose.
 - b. A description of the location of the property that is the subject of the request. The notice shall include a listing of all known existing street addresses for the petitioned property or properties. If there are no street addresses, other means of identification, such as tax parcel identification number, nearest cross street and directions, or map showing the location of the property, may be used.

C. Registration to Receive Notice by Mail

1. Any neighborhood organization, public utility company, railroad, or any other person may register with the Zoning Administrator to receive written notice of all applications for approval, or written notice of all applications for development approval within the zoning district in which they are located.
2. The requesting party must provide the Zoning Administrator information on an official form to ensure proper notification can be made. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the City Council.

SECTION 307 ENFORCEMENT, VIOLATIONS AND PENALTIES

A. The Zoning Administrator shall enforce the provisions of this Ordinance and shall inspect, or have inspected by an assign, each alleged violation.

1. A violation of the provisions of this Ordinance can be a “nuisance in fact” whereby a use, property or structure is not in compliance with the provisions of this Ordinance. Such violations include, but are not limited to, use or improvement without necessary approval or permit, placement of improvement(s) without respect to minimum and maximum dimensional requirements, non-compliance with improvements and conditions as approved by zoning permit, site plan or special land use.
2. A violation of the provisions of this Ordinance can be declared to be a “nuisance per se”, which is a nuisance at all times and under any circumstances, regardless of its location or surroundings and are acts that are denounced as illegal by law, when perpetration of them invades rights of others. Such violations shall include placement of junk and debris, blight, unsafe and hazardous improvements, use of property without permit, and producing noise, fumes, dust or other noxious characteristics affecting the general public.

B. Whenever it is determined that a violation of this Ordinance exists, the Zoning Administrator shall have the the authority to take action, or cause action to be taken by a City Police Officer, pursuant to the City's Municipal Civil Infraction Ordinance (Code of Ordinances, Sec. 2-316 et. seq.). The City also reserves the right, through the Zoning Administrator and City Attorney, to pursue violation of this Ordinance as a criminal offense and prosecutable in a court of competent jurisdiction.

C. Notwithstanding the requirements for noticing a violation of this Ordinance as set forth in the Municipal Civil Infraction Ordinance, a notice of violation may be issued in writing specifying all conditions found to be in violation.

1. Such notice of violation shall be directed to each owner of, or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
- D. In matters where the violation of this Ordinance is persistent and/or causing a nuisance to the general public, the Zoning Administrator, or assign, may prepare a report of their findings for the City Attorney to initiate prosecution proceedings in a court of competent jurisdiction and seek injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove a particular violation of this Ordinance.
1. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100) or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the prosecution of the case by the City. Each day such violation continues shall be considered a separate offense.
 2. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.
- E. The Zoning Administrator may refuse to issue new zoning permits to a person who has failed to correct violations or to any person representing a firm, which has failed to correct violations of this Ordinance. A zoning permit may also be withheld if violations are identified on site upon application for zoning permit.

SECTION 308 REVIEW FEES AND PERFORMANCE GUARANTEES

- A. Review fees shall be established for application, permit and development review for proposed improvements requiring review under this Ordinance. The amount of such fees shall be established by resolution of the City Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
1. Fees for review of development proposals, inspections and the issuance of permits required under this Ordinance shall be deposited with the City Clerk in advance of processing any application or issuance of any permit.
 2. Such fees may include, but are not limited to, all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission, Council and/or Board of Appeals time, mileage and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected

in escrow with any unexpended balance returned to an applicant according to the procedure described below:

- a. For any application for approval of a site plan, special land use, Planned Unit Development or other use or activity requiring a permit under this Ordinance, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant.
 - b. The escrow fees shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the City Council values to review the proposal. Professional review shall result in a report to the City indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. The applicant may request a copy of the statement of expenses for the professional services rendered.
 - c. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Clerk. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request. If costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any permit issued by the City in response to the applicant's request.
- B. In authorizing any site plan, special land use, Planned Unit Development or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to insure compliance with requirements, specifications and conditions imposed with the grant of such approval; to insure the discontinuance of a temporary use by a stipulated time; or to provide sufficient resources for the City to complete required improvements or conditions in the event the permit holder does not.
1. Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks.
 2. The performance guarantee shall meet the following requirements:
 - a. The performance guarantee shall be in the form of cash certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City Clerk, which names the property owner as the obligor and the City and the obligee.

- b. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity. If appropriate, based on the type of performance guarantee submitted, the City may deposit the funds in an interest bearing account in a financial institution with which the City regularly conducts business.
 - c. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the City Council.
 - d. The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
 - e. As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the City Clerk of completion of said improvements. Upon provided notice, the Zoning Administrator, or assigns, shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and City Council indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections.
 - f. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
3. The Zoning Administrator shall maintain a record of authorized performance guarantees.