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## **CHAPTER 19 ADMINISTRATION AND ENFORCEMENT**

### **SECTION 19.1      RESPONSIBILITY**

- A.      Basic Duties - The Zoning Administrator shall have the power to grant certificates of zoning compliance and to make inspections of premises necessary to carry out his/her duties in the enforcement of this Ordinance, and to otherwise carry out the duties assigned herein.
  
- B.      Deputy Administrator - Where the provisions of this Ordinance authorize or direct the Zoning Administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the City Commission.
  
- C.      Official Zoning Map - The Zoning Administrator or designee shall be responsible for maintaining the Official Zoning Map.
  
- D.      Violations - The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.

### **SECTION 19.2      ZONING ORDINANCE AMENDMENTS, INITIATION**

- A.      Time frame for Application Submittal - All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the first consideration by the Planning Commission.
  
- B.      Initiation of Amendments and Application Requirements - Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his/her authorized representative. Requests may also be made by the Planning Commission or the City Commission through official action taken at a public meeting which has been properly noticed as required by law.

In the case of an amendment requested by a property owner or his/her authorized representative, the request shall include the following:

- 1.      Completion of a Zoning Amendment Application as provided by the Zoning Administrator. An application shall include:
  - a.      The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned.

- b. In the case of a text amendment, the specific section to be amended and the proposed text change.
  - c. If a change in the zoning map is requested, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by a scaled map, the location of the property requested for rezoning.
  - d. The nature of the amendment shall be fully described in writing.
  - e. Payment of all fees as required by the City of Otsego.
2. If, in the opinion of the Zoning Administrator, Planning Commission, or City Commission, the information submitted does not provide a clear delineation of the specific area to be rezoned, the Zoning Administrator, Planning Commission, or City Commission may require the applicant to submit a boundary survey of the property in question. The survey shall include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a Land Surveyor licensed by the State of Michigan.

### **SECTION 19.3 AMENDMENT PROCEDURE**

- A. After submission of the application and fee, amendments to this Ordinance shall be processed as provided in the Zoning Act.
- B. The following guidelines shall be used by the Planning Commission, and may be used by the City Commission in consideration of amendments to the Zoning Ordinance:
  1. Text Amendment
    - a. The proposed text amendment would correct an error in the Ordinance.
    - b. The proposed text amendment would clarify the intent of the Ordinance.
    - c. The proposed text amendment would address changes to the state legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d. The proposed text amendment would promote compliance with changes in other City Ordinances and County, State or Federal regulations.
    - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
    - f. The amendment shall not result create incompatible land uses within a zoning district, or between adjacent districts.
    - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.



- C. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
- D. Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and is punishable as provided by law. Any change in approved plans shall occur as provided for in this Ordinance and shall require the issuance of an amended certificate of zoning compliance.

### **SECTION 19.5 PERFORMANCE GUARANTEE**

- A. As a condition of approval of a site plan, Special Land Use, variance, or other zoning action, the Zoning Administrator, Planning Commission, City Commission, or Zoning Board of Appeals, as appropriate, may require a bond or other financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, utilities and similar items.
- B. Performance guarantees shall be processed in the following manner:
  - 1. The applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed and approved by the Zoning Administrator. The amount of the performance guarantee shall be one-hundred percent (100%) of the following costs:
    - a. Purchase and/or construction of improvements.
    - b. Installation of improvements.
    - c. Architectural and/or engineering design or related professional costs.
    - d. Reasonable amount for contingencies, but in no case less than five percent (5%) of total costs for a-c above.
  - 2. The required performance guarantee shall be in the form of an irrevocable bank letter of credit, surety bond, or other form of guarantee acceptable to the party requiring the guarantee.
  - 3. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a certificate of zoning compliance for the subject development or activity.
  - 4. The Zoning Administrator, upon the written request of the applicant, 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.
5. When all of the required improvements have been completed, the applicant shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect the improvements and recommend to the Planning Commission, City Commission, or Zoning Board of Appeals, as appropriate, approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections.
  6. The Planning Commission, City Commission, or Zoning Board of Appeals, as appropriate, shall either approve, partially approve, or reject the improvements. The Zoning Administrator shall notify the applicant in writing of the action of the Planning Commission, City Commission, or Zoning Board of Appeals, as appropriate, within thirty (30) days after the official action of the Planning Commission, City Commission, or Zoning Board of Appeals. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
  7. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

## **SECTION 19.6      ORDINANCE VIOLATIONS**

- A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be in violation of this Ordinance shall be reported to the Zoning Administrator.
- B. Any order to correct a violation issued by the Zoning Administrator shall include a time frame by which the property owner (owner of the property upon which the violation is located) shall have to correct the violation.
  1. If the violation cannot be corrected within this time, the Zoning Administrator may, with just cause, extend the correction period for an appropriate amount of time up to a period of six (6) months. The approved extension period shall be at the discretion of the Zoning Administrator.
  2. In all cases, a request for extending the period of time for correcting a violation shall be made in writing by the applicant to the Zoning Administrator no less than twenty-one (21) days prior to the expiration of the extended time frame as originally approved by the Zoning Administrator.
  3. The request shall include specific detail on why the violation occurred, the requested time frame for correcting the violation, and actions to be pursued by the land owner to ensure correction of the violation.
  4. In the event the Zoning Administrator determines the violation poses an imminent threat to the health, safety, and welfare of the occupants of the premises on which

the violation is located or to the general public, he may require that immediate measures be taken to correct the violation.

- C. Any person, firm, corporation, or organization who violates, disobeys, omits, or refuses to comply with any provisions of this Ordinance or lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or City Commission issued in pursuance of this Ordinance shall be responsible for a civil infraction punishable by the sanctions as set forth in this Section. Each day that a violation continues may be deemed a separate infraction.
- D. The Zoning Administrator, the Building Inspector, together with law enforcement officers, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this Ordinance.
- E. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994 and the Code of Ordinances of the City of Otsego.
  - 1. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by resolution of the City Commission.
  - 2. The City shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the City pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, as amended at the present time or in the future.

#### **SECTION 19.7 STOP WORK ORDER**

- A. Notice to Owner. Upon notice from the Zoning Administrator or Building Official that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions. If any conditions, under which work or the use will be permitted to resume.
- B. Unlawful Continuance. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to-perform to remove a violation, shall be in violation of this Ordinance.

**SECTION 19.8 SEVERABILITY CLAUSE**

This Ordinance and the various Chapters, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the Court to be inoperable.

**SECTION 19.9 CONFLICTING PROVISIONS**

Where a provision of this Ordinance conflicts with a provision of another Ordinance, the strictest provision shall prevail.

**SECTION 19.10 SAVINGS CLAUSE**

- A. This Ordinance shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this Ordinance takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this Ordinance had not been adopted.
- B. Such proceedings may be consummated under and according to the Ordinance in force at the time such proceedings are or were commenced. All prosecution, or other actions, pending at the effective date of this Ordinance, or offenses or acts committed prior to the effective date of this Ordinance, may be continued or instituted under and in accordance with provisions of the Ordinance in force at the time of such offense.

**SECTION 19.11 EFFECTIVE DATE**

This Ordinance is hereby adopted at a regular meeting of the City Commission held on the 19<sup>th</sup> day of January 2004, and shall be effective February 8, 2004.