THE CITY OF THE VILLAGE OF DOUGLAS
PLANNING COMMISSION
THURSDAY, NOVEMBER 12, 2026 AT 6:00 PM
415 WEST WILEY RD, SUITE 103, DOUGLAS, MI 49406

AGENDA

To view remotely, join online or by phone.
Join online by visiting: https://us02web.zoom.us/j/89438884540
Join by phone by dialing: +1 (312) 626-6799 **| Then enter "Meeting ID":** 894 3888 4540

1. CALL TO ORDER

2. ROLL CALL

A. Approval of Agenda - November 12, 2026 (additions/changes/deletions)

Motion to approve the November 12, 2026 agenda

B. Approval of Minutes - October 8, 2026 (additions/changes/deletions)

Motion to approve the October 8, 2026 regular meeting minutes

3. PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES)

4. PUBLIC COMMUNICATION - WRITTEN

5. NEW BUSINESS

A. Amendment to Zoning Ordinance Article 6, Section 6.01 – R-3 Neighborhood Conservation District Intent – Public Hearing

-Motion to Open Public Hearing (roll call vote)

a. Planning and Zoning Administrators Report

b. Public Comments (limit 3 minutes each, please)

c. Planning Commissioner Remarks

-Motion to Close Public Hearing (roll call vote)

Motion to forward/not forward a favorable recommendation to the City Council for the adoption of the proposed zoning ordinance text amendment to Article 6, Section 6.01, R-3 Neighborhood

Conservation District, per the specific language stated in the Ordinance to Amend the Zoning Ordinance, and based on the findings stated in the Planning and Zoning Administrator's report dated November 6, 2026. (roll call vote)

B. Zoning Ordinance Update - Articles 15, 28, and 29 (Discussion only)

6. UNFINISHED BUSINESS

7. REPORTS

A. Planning and Zoning Administrator Report

B. Planning Commissioner Remarks (limit 3 minutes each, please)

8. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 3 MINUTES)

9. ADJOURNMENT

Please Note – The City of the Village of Douglas (the "City") is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of this meeting or the facilities, are requested to contact Laura Kasper, City Clerk, at (269) 857-1438, or clerk@douglasmi.gov to allow the City to make reasonable accommodations for those persons. CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN

THE CITY OF THE VILLAGE OF DOUGLAS
PLANNING COMMISSION
THURSDAY, OCTOBER 08, 2026 AT 6:00 PM
415 WEST WILEY RD, SUITE 103, DOUGLAS, MI 49406

MINUTES (DRAFT)

1. **CALL TO ORDER** – Chair Hickey called the meeting to order at 6:00 p.m.

2. **ROLL CALL**

PRESENT
Chair Thomas Hickey
Vice-Chair Matt Balmer
Secretary Paul Buszka
Commissioner Patty Hanson
Commissioner John O'Malley

Not Present
Commissioner Jennifer Ludwick
Commissioner Steven Merouse
Commissioner Laura Peterson
Commissioner Neal Seabert

Also Present
Planning & Zoning Administrator Sean Homyen
Planning Consultant Tricia Anderson (Williams & Works)

A. Approval of Agenda - October 8, 2026 (additions/changes/deletions)

Motion by O'Malley, seconded by Buszka to approve the October 8, 2026 agenda. – *Motion carried by unanimous voice vote.*

B. Approval of Minutes - September 10, 2026 (additions/changes/deletions)

Motion by Balmer, seconded by O'Malley to approve the September 10, 2026 regular meeting minutes – *Motion carried by unanimous voice vote.*

3. **PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES)** – Tracy Shafroth, 299 Water St, read a letter from Greg Plow expressing concerns about rezoning 64 Wiley Road, including traffic and emergency access, environmental impacts near Tannery Creek, stormwater management, and the loss of a site-specific PUD review process.

Ms. Rininger, 274 Water St expressed concerns regarding the property's history as an orchard, possible arsenic contamination, runoff, natural features, traffic speeds, and additional development.

Chuck Arida, 254 Water St, speaking remotely, identified adjoining Water Street properties and expressed concerns regarding development intensity, traffic on Water Street, the roadway curve, environmental impacts, and the lack of a proposed development plan.

4. PUBLIC COMMUNICATION – WRITTEN – For the record

5. NEW BUSINESS

A. DDA Survey Results Presentation – Randy Walker presented results of a Downtown Development Authority survey with 289 responses. Respondents valued restaurants and dining, walkability, and small-town character, and identified interest in additional lunch options, retail, a bakery, live music, year-round businesses, and expanded hours. Walker requested that the Commission consider the survey as community input when reviewing future downtown proposals. The DDA will continue communicating with property owners and prospective businesses.

B. Public Hearing - 64 Wiley Rd – Rezone Request from R-1 PUD to R-3 Neighborhood Conservation District

Motion by Balmer, seconded by O'Malley to open the public hearing. - *Motion carried by unanimous roll call vote.*

a. Applicant Presentation – David Schermer (Applicant) and Kelly Kuiper (Eastbrook Homes) explained the reasoning behind the request to rezone the property from R-1 PUD to R-3, with the intention of returning with an R-3 PUD application. Schermer discussed the updated Phase I and Phase II environmental assessments, traffic and utility studies, topography, wetlands, and survey. Kuiper reviewed the seven rezoning criteria under Section 28.06, including changed conditions, potential precedent, infrastructure, environmental impacts, permitted uses, consistency with the Master Plan, and reasonable economic use. The applicant stated that the proposed rezoning would better align with the Urban Residential designation in the Master Plan and allow for additional housing opportunities.

b. Planning and Zoning Administrators Report – Sean Homyen explained that the Planning Commission should focus on the rezoning criteria outlined in Section 28.06. City Planner Tricia Anderson explained that the existing PUD had not been developed and discussed the City's authority to rezone the property. Anderson also discussed the existing R-3 district intent language and the ongoing zoning ordinance amendments intended to align the ordinance with the updated Master Plan. She explained that the applicant could wait until the ordinance amendments are adopted, but doing so could delay the proposed development. Anderson further discussed the Urban Residential designation in the Master Plan and how the R-3 district could provide additional housing opportunities, while noting that R-1 and R-2 are also compatible zoning districts.

c. Public Comments (limit 3 minutes each, please) – Ronna Alexander, 265 Water Str expressed concerns regarding the existing R-3 district intent language, infrastructure, traffic, short-term rentals, and rezoning without a development plan. Tracy Shafroth, 299 Water St, requested that the Planning Commission deny or table the rezoning request due to concerns regarding traffic, density, environmental impacts, and the loss of oversight through the PUD process. Chuck Arida, 254 Water St, reiterated his concerns regarding the rezoning process, potential precedent, and changes to the character of the surrounding neighborhood. Elizabeth Eckhardt, 65 Randolph St expressed concerns regarding increased density, roadway conditions, emergency access, and protecting existing neighborhoods. Ms. Rininger, 274 Water St, expressed concerns regarding continued development,

environmental impacts, short-term rentals, and preserving the character of Douglas.

d. Commissioner Questions- Commissioner Buszka questioned the existing R-3 district intent language and whether the ordinance should be amended before considering the rezoning. Commissioner Balmer discussed the two-step process of rezoning the property before submitting a new PUD application. Commissioner Hanson discussed the proposed text amendment, consistency with the Master Plan, and the potential precedent. The applicant clarified that the proposed development would be owner-occupied, with rental restrictions incorporated into the master deed. Commissioner O'Malley expressed concerns about rezoning without seeing a conceptual development plan, including the proposed layout and density. Commissioner Buszka requested that the City Attorney review the existing R-3 ordinance language before the request proceeds to City Council.

Motion by Balmer, seconded by Hanson to close the public hearing – Motion carried unanimously

Motion by Balmer seconded by Hanson to recommend approval of the request made by David Schermer, on behalf of Tan Creek, LLC, for the amendment to the zoning ordinance and map in reference to a parcel of land located at 64 Wiley Road (PPN 59-016-096-00), from R-1, Planned Unit Development (PUD) to R-3, Neighborhood Conservation District based on the outline in the staff report.

- Motion carried by a 3–2 roll call vote. Commissioners Balmer, Buszka, and Chair Hickey voted yes. Commissioners Hanson and O'Malley voted no.

C. Westshore PUD Amendment

Motion by O'Malley, seconded by Balmer to open the public hearing – Motion carried by unanimous roll call vote

a. Applicant Presentation - Jack Barr of Nederveld, representing BDR Inc., presented the proposed amendment to the Westshore Planned Unit Development (PUD), requesting removal of the western development area from the existing PUD boundary. The amendment would reduce the required open space to approximately 42% and provide relief from the 25-foot buffer requirement behind units 16–21. The applicant discussed the proposed changes to the PUD, existing open space, and the relationship between the development and surrounding properties.

b. Planning and Zoning Administrators Report - Tricia Anderson of Williams and Works reviewed the proposed PUD amendment and applicable requirements under Article 27 of the Zoning Ordinance. Anderson discussed the proposed modification to the PUD boundary, reduction in open space, and requested relief from the 25-foot buffer requirement. Anderson also discussed the need to revise the master deed, Exhibit B drawings, and recorded open space easements, subject to City Attorney review.

c. Public Comments – Marc Newman, 745 Golfview Dr, expressed support for the proposed PUD amendment and stated that the buffer requirement was already being met. Karen Pulick, 554 Artisan Row, expressed concerns regarding the existing PUD, open space easements, and potential impacts to residents. She requested that the City, BDR, and property owners work together to ensure that the existing easements remain protected. Adam Klingher, 301 McVea, discussed the existing pathways and requested clarification regarding their continued maintenance. Dan Broekhuizen, 20 Ferry Street, expressed support for the concerns raised by Karen Pulick and Adam Klingher. Andrew Knecht, 702 Golfview Drive, expressed support for the proposal and discussed the safety easement and access to Golfview Drive from Campbell Road. Mark Lauterbach, 13 Wildwood Lane, expressed support for the proposed PUD amendment but questioned the open space requirements, Homeowners Association representation, and whether the HOA would vote on the proposed changes. Paul Lewer, 707 Golfview

Drive expressed support for the proposal and encouraged relief from the 25-foot buffer requirement.

d. Commissioner Questions - Commissioner Hanson discussed the ongoing coordination with the City Attorney regarding the proposed changes. Commissioner Balmer questioned whether the prospective buyer had contacted the Homeowners Association and discussed the existing open space easements. Peter Schmidt, BDR's attorney, explained that the HOA would need to approve certain changes but would not be required to vote on future development plans. Schmidt also explained that the existing easements would carry over to future property owners. Jeff Parker, representative of the potential buyer, discussed the survey conducted regarding the proposal. City Planner Tricia Anderson explained that staff had encouraged BDR and the prospective buyer to communicate with the HOA regarding the proposed changes.

Motion by Balmer seconded by O'Malley to close the public hearing – Motion carried by unanimous roll call vote

Motion by Balmer, seconded by Hanson to recommend to City Council to approve with conditions of the Planned Unit Development amendment submitted by Ric Dyk on behalf of BDR Inc. for the removal of the western development area resulting in the modification of the PUD boundary, reduction in open space to 42%, and the relief from the 25' buffer from units 16-21 for the Westshore Planned Unit Development, pursuant to Article 27 of the City of the Village of Douglas Zoning Ordinance subject to the following conditions:

1. The applicant shall make any necessary revisions to the master deed and Exhibit B drawings for the remaining condominium areas within the Westshore PUD, and for the removal of the western development area from the PUD boundaries, subject to the review by the City Attorney.

2. The applicant shall make any necessary revisions to the recorded open space easement documents associated with the Westshore PUD, subject to the review by the City Attorney.

3. The amendment to remove the western development area from the PUD is subject to an approval of the rezoning of the land within the western development area from PUD to a zoning district that aligns with the City's future land use plan in the Master Plan.

4. The applicant shall have paid any required escrows and complete any obligations subject to performance guarantees prior to being reimbursed for said escrows or performance guarantees.

- *Motion carried by unanimous roll call vote.*

D. Westshore PUD – Rezone Request from R-1 PUD to R-1 Residential District

Motion by Balmer, seconded by Buszka to Open Public Hearing. – *Motion carried by unanimous roll call vote.*

a. Applicant Presentation - Jack Barr of Nederveld, representing BDR Inc., presented the request to rezone approximately 46 acres of property located on Center Street from R-1 PUD to R-1 Residential District. The property consists of the western development area proposed to be removed from the existing Westshore PUD. The applicant explained that the prospective purchaser intends to use the property for a single-family residential use.

b. Planning and Zoning Administrators Report - Staff clarified that the rezoning request would be reviewed based on the applicable rezoning criteria and that no development plan was associated with the request.

c. Public Comments (limit 3 minutes each, please) – Karen Pulick, 554 Artisan Row, clarified that neither the City nor BDR had contacted the Homeowners Association regarding the proposed changes. Marc Neumann, 745 Golfview Dr, expressed support for the rezoning request and discussed the open space calculations, noting that the existing public trails remain protected by recorded easements and should be considered when evaluating the amount of open space.

d. Commissioner Questions – None

Motion by Balmer, seconded by Buszka to Close the Public Hearing. – *Motion Carried by unanimous roll call vote.*

Motion by O'Malley, seconded by Balmer to recommend approval to City Council of the request submitted by Lakeside Pastures, LLC, with authorization from Douglas Property Dev LLC, to amend the Zoning Ordinance and Zoning Map for approximately 46 acres of property located on Center Street (PPN 59-830-000-02) from Planned Unit Development (PUD) to R-1 Residential District, based on the findings outlined in the staff report. – Motion carried by unanimous roll call vote.

6. UNFINISHED BUSINESS - None

7. REPORTS

A. Planning and Zoning Administrator Report – Planning & Zoning Administrator Homyen reported on an inquiry concerning a prior bed-and-breakfast approval at 89 South Washington Street and ongoing research into the City's records. He also reported that revised plans for the 105–107 property near Blue Star Café remained under review due to concerns raised by the Fire Department and City Engineer.

B. Planning Commissioner Remarks – Commissioners discussed including a conceptual development plan with future rezoning requests, scheduling review of additional zoning ordinance articles, and handling major applications when several commissioners are absent. A commissioner raised concerns about landscaping and fencing within a right-of-way and clear-vision area on Washington Street. Chair Hickey advised that he expected to be absent at the next meeting.

8. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 3 MINUTES) - None

9. ADJOURNMENT

Motion by O'Malley seconded by Balmer to adjourn the meeting. – *Motion carried by unanimous voice vote.*

To: City of the Village of Douglas Planning Commission

Date: November 6, 2026

From: Sean Homyen, Planning & Zoning Administrator

RE: Proposed Zoning Ordinance Text Amendment – Article 6, Section 6.01, R-3 Neighborhood Conservation District

The Village of Friendliness – Since 1870

BACKGROUND. At its October 8, 2026 meeting, the Planning Commission considered a request to rezone approximately 20 acres located at 64 Wiley Road from R-1 Planned Unit Development (PUD) to R-3 Neighborhood Conservation District. During the review, questions were raised regarding the existing intent language in Article 6, Section 6.01, which states that no additional lands are intended to be zoned R-3 after the effective date of the Ordinance.

The Planning Commission recommended approval of the rezoning request and requested clarification regarding the existing ordinance language before City Council consideration.

Following the meeting, staff consulted with the City Attorney regarding Section 6.01. The City Attorney recommended amending the section before proceeding with the proposed rezoning request.

PROPOSED AMENDMENT. The proposed amendment would repeal and replace Section 6.01, Intent, with updated language establishing the intent and purpose of the R-3 Neighborhood Conservation District.

The proposed language was taken from the City's ongoing Zoning Ordinance update and is intended to provide consistency with the Master Plan and the City's long-term planning goals.

The amendment would remove the existing restriction on expanding the R-3 district and establish language that supports the preservation of established neighborhood character, walkability, compatible housing forms, and future development consistent with the City's Master Plan.

The proposed amendment does not change the permitted uses, dimensional requirements, or other development standards of the R-3 district.

PROCEDURES. Section 28.02 of the Zoning Ordinance establishes the procedures for reviewing proposed zoning ordinance amendments. The Planning Commission is responsible for holding a public hearing and forwarding a recommendation to the City Council, which is the final reviewing authority.

Section 28.04 establishes the public hearing and notification requirements for proposed amendments to the Zoning Ordinance.

ANALYSIS OF AMENDMENT CRITERIA. Section 28.06 of the Zoning Ordinance identifies criteria for considering proposed amendments. The proposed text amendment would allow

future rezoning requests to be evaluated based on their consistency with the City's Master Plan and applicable zoning requirements.

The amendment does not establish any new permitted uses or development standards within the R-3 district.

STAFF REVIEW. Staff finds that the proposed amendment would provide a clearer basis for considering future requests to rezone property to R-3 while maintaining the intent of preserving established neighborhood character.

The proposed amendment addresses the existing limitation on expanding the R-3 district and supports the implementation of the Urban Residential future land use designation identified in the City's adopted Master Plan.

SUGGESTED MOTION

I move to forward/not forward a favorable recommendation to the City Council for the adoption of the proposed zoning ordinance text amendment to Article 6, Section 6.01, R-3 Neighborhood Conservation District, per the specific language stated in the Ordinance to Amend the Zoning Ordinance, and based on the findings stated in the Planning and Zoning Administrator's report dated November 6, 2026.

Please feel free to reach out with any questions.

Original:

ARTICLE 6: R-3 NEIGHBORHOOD CONSERVATION DISTRICT

Section 6.01 Intent

~~It is the intent of the R-3 Neighborhood Conservation District to provide for single family dwelling opportunities consistent with the traditional character, pedestrian accessibility and grid street pattern of the City. It is further the intent of this District to stabilize, protect, and encourage the continued residential character of the District and prohibit activities not compatible with the current and future intended residential character.~~

~~The R-3 Neighborhood Conservation District is intended to also implement the planned Village Center Residential area presented in the Tri-Community Comprehensive Plan and applies to lots in Felker's High Pines and Lakeshore Subdivisions. No other lands are intended to be zoned into R-3 after the effective date of this Ordinance.~~

Amended and replaced with:

ARTICLE 6: R-3 NEIGHBORHOOD CONSERVATION DISTRICT

Section 6.01 Intent and Purpose

A. Intent. It is the intent of the Neighborhood Conservation District to encourage housing types that fit the historic character of the original Douglas Plat and adjacent City Center district. Development should reinforce the established neighborhood pattern and architectural form, allowing for a variety of housing forms where designed to blend with surrounding residences and maintain a walkable, cohesive neighborhood environment

B. Purpose. The purpose of the Neighborhood Conservation District is to preserve and strengthen the traditional residential character of the original Douglas Plat and surrounding historic neighborhoods while supporting the housing goals identified in the City's Master Plan in areas where this zoning district is expanded. This district is intended to maintain the walkable, human-scaled development pattern that defines these areas, protect established neighborhood form and character, and guide new development, both on vacant land and in infill areas, in a manner consistent with the community's long-term vision.

C. The R-3, Neighborhood Conservation District is identified as a compatible zoning district for the implementation of the Urban Residential future land use designation in the City of Douglas Master Plan.

CITY OF THE VILLAGE OF DOUGLAS
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 04-2026

AN ORDINANCE TO AMEND ARTICLE 6, SECTION 6.01 OF THE CITY OF THE VILLAGE OF DOUGLAS ZONING ORDINANCE

An Ordinance to Amend Article 6, Section 6.01, Intent, of the Zoning Ordinance of the City of the Village of Douglas, concerning the R-3 Neighborhood Conservation District.

THE CITY OF THE VILLAGE OF DOUGLAS DOES HEREBY ORDAINS:

SECTION 1: PREAMBLE.

WHEREAS, the City seeks to maintain the traditional residential character and development pattern of the R-3 Neighborhood Conservation District; and

WHEREAS, the City desires to align the intent and purpose of the R-3 Neighborhood Conservation District with the City of Douglas Master Plan, including the Urban Residential future land use designation; and

WHEREAS, the City desires to clarify the applicability of the R-3 Neighborhood Conservation District to areas where the district may be expanded.

SECTION 2: AMENDMENT. Article 6, R-3 Neighborhood Conservation District, Section 6.01 of the City of the Village of Douglas Zoning Ordinance is hereby repealed in its entirety and replaced with the following:

ARTICLE 6: R-3 NEIGHBORHOOD CONSERVATION DISTRICT

Section 6.01 Intent and Purpose

A. Intent. It is the intent of the Neighborhood Conservation District to encourage housing types that fit the historic character of the original Douglas Plat and adjacent City Center district. Development should reinforce the established neighborhood pattern and architectural form, allowing for a variety of housing forms where designed to blend with surrounding residences and maintain a walkable, cohesive neighborhood environment.

B. Purpose. The purpose of the Neighborhood Conservation District is to preserve and strengthen the traditional residential character of the original Douglas Plat and surrounding historic neighborhoods while supporting the housing goals identified in the City's Master Plan in areas where this zoning district is expanded. This district is intended to maintain the walkable, human-scaled development pattern that defines these areas, protect established neighborhood form and character, and guide new development, both on vacant land and in infill areas, in a manner consistent with the community's long-term vision.

C. The R-3, Neighborhood Conservation District is identified as a compatible zoning district for the implementation of the Urban Residential future land use designation in the City of Douglas Master Plan.

SECTION 3: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 4: REPEALER. All other ordinances or portions of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 5: PUBLICATION. Within fifteen (15) days of its adoption, this Ordinance or a notice of adoption summarizing this Ordinance, as required by law, shall be published by the City Clerk in a newspaper of general circulation in the City in accordance with Act 110 of 2006.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective twenty (20) days after the date of publication.

Ordinance Offered by:
Ordinance Supported by:

Ayes:
Nays:
Abstain:
Absent:

First Reading:
Second Reading:
Date of Publication:
Effective Date:

ORDINANCE DECLARED ADOPTED ON THIS _____ DAY OF NOVEMBER, 2026.

_____ _____
Cathy North, Mayor Date

_____ _____
Laura Kasper, City Clerk Date

Ordinance Adoption Date:
Ordinance Effective Date:

CERTIFICATE

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of the Village of Douglas at a regular meeting held on _____ _____, 2026, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the City Charter and the Open Meetings Act, Public Act 267 of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

_____
Laura Kasper, City Clerk

williams&works
engineers | surveyors | planners

MEMORANDUM

To:	City of the Village of Douglas Planning Commission
Date:	November 6, 2026
From:	Tricia Anderson, AICP
RE:	**Zoning Ordinance Update**

At the upcoming meeting the Planning Commission will have an opportunity to review the next few articles that have been revised in accordance with the audit, Master Plan recommendations, and recommendations from the Planning Commission and Steering Committee. All but three articles have been reviewed and revised with the steering committee. The Planning Commission will need to begin reviewing a few articles at a time and providing its input over the next few months so that the new Zoning Ordinance can eventually be adopted.

At the upcoming meeting, the Planning Commission is asked to review and discuss Article 15, Nonconformities, Article 28, Administration and Enforcement, and Article 29, Zoning Board of Appeals.

The following is a summary of the major modifications to each of these articles:

Article 15, Nonconforming Lots, Uses, and Structures:

Per the recommendations in the audit, the proposed Article 15 reorganizes and updates the existing regulations governing nonconforming lots, uses, and structures. The provisions have been developed to be more user-friendly regarding allowable improvements, to establish updated standards for reconstruction, and to address the continuation of lawful nonconformities. The primary changes include:

- **Nonconforming Lots.** Expands opportunities to develop legally established nonconforming lots with permitted land uses, provided structures meet at least 90% of the applicable dimensional requirements and maintain a minimum five-foot setback. Existing lot consolidation requirements are retained.
- **Nonconforming Uses.** Establishes more specific limitations on the expansion of nonconforming uses while expressly allowing certain improvements, including interior renovations, exterior maintenance, and accessibility upgrades, such as a wheelchair ramp.
    - **Reconstruction and Restoration**. Revised standards for rebuilding damaged or destroyed structures are established. The revisions also provide specific protections for residential nonconforming uses, including a one-year timeframe for obtaining a building permit after a total loss. The revised Article allows the ability for the Zoning Administrator to issue rebuild letters for financing purposes.

- **Nonconforming Structures.** Provides additional flexibility for improvements and alterations that do not increase the degree of nonconformity. The existing 60% destruction threshold was removed, and reconstruction is generally required to comply with current dimensional standards unless a variance is granted.
    - Repairs and Maintenance: Eliminates the existing limitation on repairs exceeding 50% of a building's replacement cost within a 12-month period. The revisions provide broader allowances for routine maintenance, rehabilitation, and improvements necessary to maintain existing structures.
- **Creation of Nonconformities.** The revised Article expressly prohibits land divisions and building expansions that would create new nonconformities, while retaining provisions addressing nonconformities resulting from zoning district changes.
- **Administrative Clarifications.** Various changes were made here. The revised Article 15 consolidates general provisions that are applicable to all types of nonconformities, removes the separate hardship provisions since they differ from the standard variance procedures. Existing provisions regarding illegal nonconforming uses and abandonment remain substantially unchanged.

Overall, the revisions modernize Article 15 by replacing several restrictive, cost-based limitations with more clearly defined standards that are intended to align with the recommendations of the City's Master Plan and in the audit report.

Article 28, Administration, Enforcement, and Amendments

The proposed Article 28 consolidates the existing provisions of Article 23 (Administration and Enforcement) and Article 28 (Amendments) into a single article. The revisions streamline procedures and make this Article a logical reference for all the various Articles that make mention of public notices, the role of the Planning & Zoning Administrator, fees, escrows, and violations of the Zoning Ordinance.

The primary changes made to this content include the following:

- **Planning & Zoning Administrator Responsibilities**. Clarifies the duties and authority of the Planning & Zoning Administrator, including a modification of the title (Zoning Administrator to Planning & Zoning Administrator), permit issuance, inspections, enforcement, and appeals.
- **Zoning Permit Procedures.** Updates were made to application requirements, establishes clearer exemptions for routine maintenance and interior renovations, and provides additional procedures for permit expiration, extensions, revocation, and reapplication. The revisions also clarify requirements for foundation wall surveys.
- **Fees, Escrows, and Performance Guarantees.** The revised Article consolidates financial guarantee requirements into one section, more specifically references the City's adopted escrow policy, and establishes more specific procedures for collecting and administering performance guarantees.

- **Public Hearing Requirements.** This section was written specifically to be referenced in other locations of the ordinance. It is a single section applicable to zoning amendments, special land uses, variances, and other applications requiring public hearings.
- **Zoning Ordinance Amendments.** Parties authorized to initiate amendments are specifically stated, more detailed application requirements are established, and the 30-day application submission deadline before Planning Commission consideration is added. The revisions also clarify the review and recommendation responsibilities of the Planning Commission and City Council.
- **Amendment Review Criteria.** Establishes more detailed criteria for evaluating proposed zoning text and map amendments, including consistency with the Master Plan, compatibility with surrounding land uses, environmental impacts, and public infrastructure capacity.
- **Enforcement and Penalties.** Replaces the existing misdemeanor penalty provisions with municipal civil infraction procedures and establishes a more streamlined enforcement process. The revisions provide for written violation notices, a minimum 30-day correction period, and appeals to the Zoning Board of Appeals rather than the current City Council hearing process.

Overall, the proposed Article 28 modernizes the City's administrative procedures by consolidating related regulations, improving consistency in permit and amendment reviews, and establishing a clearer, more standardized approach to zoning enforcement.

Article 29, Zoning Board of Appeals.

This Article retained a fair amount of the existing language, however, it was organized for more logical flow and modified to be easier to administer and navigate for both the Planning & Zoning Administrator, the applicant, and the ZBA.

- This article was updated to better match the language outlined in the Zoning Enabling Act (MZEA). It was also reorganized for the purpose of mirroring the Act and places application procedures toward the beginning of the Article.
- The statute reference was updated to the MZEA and a reference to the Open Meetings Act was added.
- The ability for the ZBA to classify a use was removed since it conflicts with case law and best practices.
- The scope of jurisdiction was updated to clarify what the ZBA can and cannot hear.
- Application requirements were updated to be more comprehensive and require the submission of a survey that has been sealed by a professional surveyor.
- The extent of the pre-hearing conference was removed.

Article 15: Nonconforming Lots, Uses, and Structures

Section 15.01 Intent and Purpose

A. It is recognized that there are existing lots, structures, and uses of land which were lawful at one time or before this Ordinance was adopted or amended.

B. The intent of this Article is to permit legal nonconforming lots, structures or uses to continue until they are removed, or otherwise cease existence.

C. No building or structure, or part thereof, shall be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of and building, structure or land, or part thereof, except in conformance with the provisions of this Article.

Section 15.02 General Provisions Applicable to All Nonconformities

A. This Article shall be applicable to any nonconforming use, nonconforming buildings, and nonconforming lots within the City of the Village of Douglas, as defined in Article 2 of this Ordinance.

B. Change of ownership between private parties does not remove the nonconformity nor extend time limits.

C. Nothing in this Article shall prevent the repair, reinforcement, improvement, or rehabilitation of nonconforming structures or structures occupied by nonconforming uses, or part thereof, existing as of the effective date of this Ordinance, rendered necessary by wear and tear, deterioration, or depreciation; nor prevent compliance with the provisions of the applicable building codes, relative to the maintenance of buildings or structures occupied with a nonconforming use.

D. The creation of nonconformities by a zoning decision to allow the construction of a building or expansion of an existing building shall be prohibited.

Section 15.03 Nonconforming Lots

A. Wherever multiple contiguous lots of record, as defined in Article 2 of this Ordinance, are in single ownership, and each is below the minimum requirements for lot width, area, or both in a zoning district, said lots shall be combined in the minimum number necessary to meet the lot size requirements of the district in which they are located. In so doing the combined lot shall be considered a single lot for zoning purposes.

B. A nonconforming lot, as defined in Article 2 of this Ordinance, which does not meet the current dimensional requirements for lot area, lot width, or lot depth in the district in

DRAFT

which it is located may be used for a land use permitted in that zoning district, provided the following can be met:

1. The proposed structure meets ninety percent (90%) zoning district's dimensional requirements, provided, however, no structure is constructed closer than five (5) feet to any lot line.
2. The off-street parking requirements of Section 21.05 can be met.
3. In cases where the proposed construction of a building cannot reasonably meet 90% of the district requirements, the applicant may seek a dimensional variance, pursuant to Article 29, Zoning Board of Appeals.

Section 15.04 Nonconforming Use of Land

A. The nonconforming uses of land may lawfully continue for the life of the structure in which it occupies, provided that structures occupied by nonconforming uses shall not be improved or expanded in such a way that would extend the life of the nonconforming use, except for provided for herein.

B. Improvements to Structures Occupied by Nonconforming Uses.

1. A structure occupied by a nonconforming use may not be improved by way of expansion or any other improvement that would extend the life of the nonconforming use, life the nonconforming use, except as provided below:
    a. The addition of an unenclosed porch, deck, or similar feature that does not extend the building footprint of the structure.
    b. Improvements to the structure only to provide barrier-free access or accommodation.
    c. Interior improvements that would not constitute an expansion of the footprint of the structure.
    d. Exterior improvements such as new roofing, siding, shutters, gutters, driveways, landscaping, and stormwater controls.

C. Reconstruction and Restoration. A structure occupied by a nonconforming use that is destroyed or damaged by fire, explosion, natural disaster, or other similar causes may only be restored or rebuilt in accordance with the following:

    a. The structure previously occupied by a nonconforming use may be rebuilt or restored only in compliance with the current land use and dimensional regulations for the zoning district in which the structure was located, with the following exceptions:
        (1) Residential Structures. If the structure occupied by a nonconforming use was a residential structure, it may be rebuilt or restored if a building permit is applied for within one year of the destruction or total loss of the home.

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(2) Rebuild letter. The Zoning Administrator may write a "rebuild letter" for a prospective buyer or property owner who wishes to refinance a residential home that is considered a nonconforming use in the zoning district in which it is located, whose lending institution requires this as part of the terms of financing.

(3) All other structures occupied by nonconforming uses may request a use variance from the Zoning Board of Appeals, provided that the property cannot be reasonably occupied by a use that is permitted by right or by special land use in the zoning district in which it is located.

Section 15.05 Nonconforming Structures

A. Where an existing structure that was lawful at the effective date of adoption or amendment of this Ordinance, but no longer meets the dimensional requirements for the zoning district it is located with respect to setbacks, height, lot coverage, floor areas, or similar requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

B. Improvements to Nonconforming Structures.

1. Alterations or enlargements of structures that do not increase the degree of the nonconforming nature of the structure may be permitted, provided the alteration or enlargement complies with the provisions of this Ordinance, with the following exceptions:

   a. Improvements to add an unenclosed porch or another similar architectural feature that is in keeping with the surrounding architectural style, provided such an unenclosed porch or feature is no closer than five (5) feet from any property line.

   b. Improvements to the structure only to provide barrier-free access or accommodation.

2. Reconstruction and Restoration.

   a. A nonconforming structure damaged or destroyed by fire, explosion, natural disaster, or other similar causes may be restored or rebuilt only in compliance with the current dimensional regulations, with the following exception:

      (1) Zoning Board of Appeals may consider a variance from the district dimensional requirements under the procedures and standards outlined in Article 29, Zoning Board of Appeals.

Section 15.06 Creation of Nonconformities

A. Whenever the zoning designation is changed to different zoning designation, the provisions of this Article shall apply to any existing uses or lots that become nonconforming as a result of the rezoning.

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B. No land division shall be approved that would create a nonconforming lot or structure.

Section 15.07 Illegal Nonconforming Uses

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without a valid zoning or building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

Section 15.08 Abandonment of Nonconforming Uses

Any legally established nonconforming use which remains discontinued after receipt of notice by mail to the owner of record, and posting of the property in a conspicuous place, stating that "the vested right of continuance will be terminated unless the use of land or occupancy of the structure is re-established within 365 days", shall be conclusively presumed to be abandoned and shall lose all rights to continuance as a legal nonconformity.

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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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Article 29: Zoning Board of Appeals

Section 29.01 Intent and Purpose

The purpose of this Article is to ensure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

Section 29.02 Creation and Membership

A. A Zoning Board of Appeals is hereby created in accordance with the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

B. The Zoning Board shall consist of five (5) members with the following stipulations on membership:

   1. One (1) member shall be a member of the Planning Commission.
   2. The remaining regular members shall be representative of the geographic population distribution of the City.
   3. An employee or contractor of the City may not serve as a member on the Zoning Board of Appeals.
   4. An alternate member may be appointed to the Zoning Board of Appeals.

C. Appointment and Terms.

   1. Regular and alternate members of the Zoning Board of Appeals shall be appointed by the City Commission.
   2. The term of each member shall be for three (3) years.

D. Meetings.

   1. Meetings of the City Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as the Board in its bylaws may specify.
   2. All meetings of the Zoning Board of Appeals shall be open to the public.
   3. The Zoning Board of Appeals shall maintain a record of its proceedings which shall be a public record.

Section 29.03 Organization

A. Rules of Procedure.

   1. The Zoning Board of Appeals shall adopt by-laws that outline the manner in which meetings are conducted and duties are implemented.

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2. The Board shall annually elect a chairperson, a vice-chairperson, and a secretary.

B. Meetings and Quorum.

1. Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson or their designee.
2. A majority of the total membership of the Board shall constitute a quorum.
3. All meetings shall be open to the public, in accordance with the Open Meetings Act (Act 267 of 1976, as amended).

C. Records: The minutes of all meetings shall contain the grounds for every determination made by the Board including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the Planning & Zoning Administrator.

Section 29.04 Jurisdiction

The Zoning Board of Appeals shall hear and decide upon the following types of requests:

A. Interpret the provisions of this Ordinance.

1. In the event that the text of the language is unclear, the Zoning Board shall make the official determination on the intended meaning.
2. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
3. The opinion of the City Attorney may be sought to assist the Zoning Board in making the ordinance interpretation.

B. Make an interpretation of the Zoning Map to determine the precise location of zoning district boundaries.

C. Consider requests for use and non-use variances from the provisions of this Ordinance, with the following exceptions:

4. The Zoning Board of appeals shall not hear requests for variances from requirements for a Special Land Use.
5. The Zoning Board of Appeals shall not hear requests for variances on any property or use that is within a Planned Unit Development, nor shall the Zoning Board of Appeals hear requests for variances from the requirements of Article 27, Planned Unit Developments.

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6. The Zoning Board of Appeals shall not have the authority to hear appeals related to any decision or conditions attached to any decision pertaining to special land uses or planned unit development, unless otherwise specifically permitted in this ordinance.
7. The Zoning Board of Appeals shall not take any actions that have the effect of a legislative action, such as a rezoning or amendment to the text of this Ordinance.

D. Consider an appeal from any administrative decision or determination of the Planning & Zoning Administrator, Planning Commission, or other administrative official, except as otherwise provided in this Article.

Section 29.05 Appeals Procedures

A. Procedures Applicable to all Appeals and Variances.

1. Applications.

a. All applications and written appeals shall be submitted to the City at least thirty (30) days prior to the next regularly scheduled meeting of the Zoning Board of Appeals.

b. An application shall be submitted on a form provided by the City, accompanied by a fee and an escrow deposit as established by the fee schedule adopted by the City Council, and in accordance with Section 28.04. All applications shall include the following information:

(1) The address(es) and parcel number(s) of the subject property.

(2) The property owner's name, address, phone number, and e-mail address.

(3) The applicant's name, address, phone number, and email address, if not the property owner.

(4) The zoning designation of the subject parcel(s).

(5) The gross acreage of all parcels associated with the request.

(6) Legal description of subject parcel(s).

(7) Signature of the applicant and owner or agent.

(8) Nature of request (dimensional variance, use variance, appeal of determination, zoning text interpretation, or interpretation of zoning boundaries).

(9) Applicable section of the Zoning Ordinance from which the variance, appeal, or interpretation is sought.

(10) Response to the variance criteria listed in Section ___ of this Article (variance requests only)

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c. All variance request applications shall also be accompanied by a survey sealed by a licensed surveyor which depicts the following:

(1) All lot dimensions;

(2) All existing improvements upon the subject property and setbacks from property lines, buildings, and other structures;

(3) All easements and easement dimensions;

(4) Any other features on the lot that would demonstrate the uniqueness or unusual circumstances, such as wetlands, water bodies, or steep slopes; and

(5) Proposed location of improvement(s) for which the variance is sought, including dimensions of said improvement and all proposed setbacks from property lines and other structures.

d. The Planning & Planning & Zoning Administrator shall have the authority to return incomplete application submittals.

2. Public Hearing Required.

a. The Zoning Board of Appeals shall hold a public hearing for every type of request listed in Section 29.04.

b. The Planning & Zoning Administrator shall follow the procedures outlined in Section 28.05 to properly notice the public of a public hearing in accordance with the Michigan Zoning Enabling Act (Act 110 of 2006, as amended). Public Hearing Notice Requirements, to provide notice for the required public hearing.

c. The Zoning Board of Appeals shall fix a reasonable time of the hearing, and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

3. Stay of Proceedings.

a. An appeal stays all proceedings in furtherance of the action appealed from, unless the Planning & Zoning Administrator certifies to the Zoning Board of Appeals after the application is filed, that a stay would, in the opinion of the Planning & Zoning Administrator, cause imminent peril to life and property.

b. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record, having jurisdiction and powers to exercise such order.

B. Appeals of Administrative Decisions.

a. Appeals of decisions made by City staff or officials, as outlined in Section 29.04 An application may be made by any person, firm or corporation, office, department, or representative allegedly aggrieved by such decision.

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b. Such appeals shall be filed in writing within thirty (30) days of the aggrieved action, and shall specify the grounds for the appeal.

c. The Zoning Board of Appeals shall reverse or affirm the determination or decision made by City staff or other City officials, and shall state into the record the rationale for such decision.

C. Performance Guarantee.

1. In authorizing any variance, the Zoning Board of Appeals may require that a performance guarantee is provided to the City in the manner outlined in Section 28.04 of this Ordinance

2. The Zoning Board of Appeals may not require the deposit of the performance guarantee before the date on which the permit is to be issued.

Section 29.06 Variance Criteria

A. Non-use (dimensional) variances.

1. The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements, including, but not limited to, structure height, bulk placement regulations for structures, requirements for parking and loading areas, landscaping, lighting, driveways and access, provided that all the criteria listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion:

a. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance relative to the following aspects of the land on which the variance is sought, such as:

(1) Unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the subject property that do not generally apply to other property or uses in the same zoning district, and not recurrent in nature.

(2) The presence of a nonconformity that is not the result of any action of the applicant or current property owner.

(3) Practical difficulties caused by encumbrances from easements, wetlands, floodplain, water bodies, dunes, or other natural features.

b. That the variance will relate only to property under control of the applicant.

c. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.

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d. That the variance requested is the minimum amount necessary to overcome the practical difficulty or mitigate the hardship caused by the unique circumstances presented by the subject property.

e. That strict compliance with dimensional requirements or bulk placement requirements would unreasonably prevent the owner from using the property for a permitted purpose, and would render conformity unnecessarily burdensome.

f. That the denial of a variance would prevent the property owner from being afforded a similar property right as others in the same zoning district and in general vicinity.

B. Use variances.

1. The Zoning Board of Appeals shall have the authority to grant use variances only if the following can be demonstrated by the applicant:

a. That the variance shall not permit the establishment of a use on the subject property that would cause detriment to surrounding properties.

b. That the subject property for which the use variance is sought cannot be reasonably used for any other purpose other than the proposed use.

c. That the denial of the of the use variance would constitute a regulatory taking without just compensation if application of existing regulations does not permit a reasonable use of land under existing common law or statutory standards.

d. That the applicant has first applied for and been denied a rezone or conditional rezone to a district that would allow such use.

Section 29.07 Decisions of the Zoning Board of Appeals

A. At the conclusion of the hearing, the Zoning Board of Appeals may make its decision at that meeting, upon finding that the criteria in Section 29.06 are met, or it may adjourn the hearing to a new date for the purpose of providing the applicant an opportunity to submit additional information that would aid in the Zoning Board's decision

B. Decisions shall be made upon the concurring vote of the majority of the Board members to reverse any order, requirement, decision or determination of the Planning & Zoning Administrator or Planning Commission, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variance in the application of this Ordinance.

C. All final decisions of the Zoning Board of Appeals shall be accompanied by specific findings of fact in support of the approval or denial. Such findings shall be tied specifically to the standards listed in Section 29.06 of this Article, and stated clearly into the record.

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D. All variances granted shall be the minimum necessary to overcome the practical difficulty. As such, the Zoning Board of Appeals may offer, and the applicant may accept, a variance which is a lesser extent of what is requested in the application for said variance.

Section 29.08 Effect of Approval

E. A variance granted under the provisions of this Ordinance shall expire by limitation and become null and void if the building or work authorized by the ZBA is not commenced within one year from the date of authorization, unless otherwise authorized by the ZBA.

F. All approved variances implemented stay with the land and are not subject to revocation due to a change in ownership of the property.

G. A reapplication or rehearing following the Zoning Board of Appeals' denial of a request shall not be accepted for one year from the date of the denial, unless there is a significant change in circumstances affecting the subject property.

H. A rehearing shall be processed in the same manner as the original application.

Section 29.09 Conditions of Approval

A. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

B. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and constitutes a municipal civil infraction.

C. A violation of the terms of the variance is cause for revocation.

Section 29.10 Review by Circuit Court

A. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

   1. Complies with the constitution and laws of the state.
   2. Is based upon proper procedure.
   3. Is supported by competent, material, and substantial evidence on the record.
   4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

B. If the court finds the record inadequate to make the review required by this Section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper.

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C. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision.

D. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

E. An appeal from a decision of a Zoning Board of Appeals shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision.

F. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.

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