

**PLANNING COMMISSION  
CITY OF THE VILLAGE OF DOUGLAS  
CITY HALL - 86 W. CENTER STREET, DOUGLAS, MI**

**REGULAR MEETING  
WEDNESDAY, SEPTEMBER 8, 2021 – 7:00 PM**

**AGENDA**

**A. Call to Order** – Remote Special Meeting Procedures

**B. Roll Call**

1. Approval of Agenda (additions/changes/deletions)  
*-Motion to Approve; September 8, 2021. (Roll Call Vote)*
2. Approval of Minutes (additions/changes/deletions)  
*- Motion to Approve; August 11, 2021. (Roll Call Vote)*

**C. Public Comment (limit 5 minutes please)**

**D. Communications**

**E. New Business**

**F. Old Business**

1. Discussion of Amendments - Article 22, City of the Village of Douglas Zoning Ordinance; to repeal and replace Section 16.26 Signs and Village of Douglas Sign Ordinance 111-D. *Review of Permitted On-Premises Signs in Residential Districts; On-Premises Signs in Commercial or Industrial Districts; Signs Not to Constitute a Traffic or Fire Hazard; Portable or Movable Signs; Off-Premises Sign(s); Existing Nonconforming Signs; Nonconforming Signs Located in the Right-of-Way; Wayfinding and Municipal (Multi-Business) Directional Signs.*  
*- Motion to Consider, Schedule for Public Hearing (Roll Call Vote)*
2. Discussion of Amendments - Article 20, City of the Village of Douglas Zoning Ordinance; to repeal and replace Section 16.20 Environmental Protection Standards; Section 16.21 Shorelines; Section 16.22 Roads, Water, Sewage, and Stormwater Standards; Article 21 Landscaping, Buffering, and Fencing; Chapter 98 Trees and Chapter 151 Waterfront Construction, of the Code of Ordinances. *Review of Plans Required for Permits; Sensitive Lands; Stormwater Standards and Management; Tree Protection; Waterfront Development.*  
*- Motion to Consider (Roll Call Vote)*

**G. Reports of Officers, Members, Committees** - Planning & Zoning Administrator (N. Wikar)

**H. Public Comment (limit 5 minutes please)**

**I. Adjournment**

## NOTICE

### REMOTE MEETING

This meeting is being held in-person with option for remote attendance and electronic participation.

### ACCESS INSTRUCTIONS

To attend and participate in this meeting of the City of the Village of Douglas Planning Commission remotely, please consider joining on-line or by phone.

Join on-line by visiting:

<https://us02web.zoom.us/j/83671119278>

Join by phone by dialing:

**+1 (312) 626-6799**

Then enter  
"Meeting ID":

**836 7111 9278**

Those who are hearing impaired and require additional accommodations are encouraged to contact  
**(269) 857-1438**  
or  
[clerk@douglasmi.gov](mailto:clerk@douglasmi.gov)  
as soon as possible.

CITY OF THE VILLAGE OF DOUGLAS  
REMOTE MEETING SPECIAL PROCEDURES

The following guidelines shall be in-place to assist and manage public attendance and participation in remote (online and telephone), electronic meetings of the City of the Village of Douglas, Michigan.

1. City Staff shall be available to assist the public to make reasonable accommodations for those with disabilities and/or the hearing impairment to attend and participate without impediment.
2. For the purpose of carrying-out remote meetings, a staff member will act as "administrator" to manage all content, access, video, audio, chat, "gesturing," recording, visual, and screensharing controls.
3. For the purposes of preserving the agenda and integrity of the meeting, the meeting "administrator" shall assist the chairperson in moderating audio/microphone controls of participants, building a speaker list of those wishing to comment while limiting public microphone access to "public comment"/"public participation" periods of the meeting, as published.
4. Online attendees/participants shall indicate their desire to speak on an agenda item or topic by using "gesturing" controls (i.e. Raise Hand, Thumbs Up, etc.), using the chat window, or by voice. All microphones will be temporarily unmuted for a brief period of time at the beginning of all "public comment"/"public participation" periods of the meeting so those joining by telephone or those participants who are audio-restricted may indicate they would like to be added to the speaker list. The chairperson and meeting "administrator" will share the responsibility of building and managing the speaker list, recognizing each speaker individually, and toggling microphone controls so all speakers on the list may be heard.
5. Lewd, profane, hostile, aggressive, racist/discriminatory, disruptive, or otherwise obstructive behavior by attendees/participants will not be tolerated. The City and meeting "administrator" reserves the right to warn, limit, restrict, and remove any content or participants in violation of this directive.
6. All "public comment"/"public participation" periods of the meeting will be concluded after the chairperson/meeting "administrator" has:
  - a. exhausted the speaker list
  - b. responded to any outstanding "gesturing"
  - c. answered any outstanding requests to speak as indicated in the chat window, and
  - d. after a final call for any additional or remaining public comments as indicated by voice. All microphones will again be temporarily unmuted at that time.
7. The City shall record and make available to the public, in a reasonable time frame, all content of all remote meetings of Council and public boards/commissions for the public record, online, and at individual request in electronic format.



**THE CITY OF THE VILLAGE OF DOUGLAS**  
**REGULAR MEETING OF THE PLANNING COMMISSION**  
**86 W. Center St, Douglas, MI 49406**  
**August 11, 2021– 7:00 P.M.**

- A. Call to Order:** Chair Pattison called the meeting at 7:00 P.M.
- B. Roll Call:** Present -Buszka, Heneghan, McIntyre, McWebb, Pattison, Seabert  
Absent - None
1. Approval of the Agenda – agenda addition of “signs that have permits”  
*Motion by Seabert, with support from McIntyre, to approve the August 11, 2021, agenda as amended. Motion carried by unanimous roll call vote.*
  2. Approval of the Minutes – amended minutes  
*Motion by Buszka, with support from McWebb, to approve the July 14, 2021, minutes as amended. Motion carried by unanimous roll call vote.*
- C. Public Comments** (limit of 5 minutes) – There were no public comments.
- D. Communications** – There were no communications.
- E. New Business**
1. Nomination & Election of Officers (City Clerk)  
Chair Pattison read her resignation letter, as chair of the commission, into record.  
Three nominations for a new Chair were taken.  
  
*Motion by McWebb, with support from Seabert, to name Paul Buszka as chair. Motion carried by unanimous roll call vote.*
  2. Initiation of Audit, “Our Douglas Vision” Master Plan  
Review of Community Elements (Economic Development, Housing & Neighborhoods, People, Arts & Culture, and Waterfront) Goals and Objectives.  
  
*Motion by Pattison, with support from McWebb, to suspend the meeting rules to complete a 15-minute survey. Motion carried by roll call vote.*  
  
Planning Director encouraged members to have the survey completed and turned in at the end of the meeting.
- F. Old Business**
1. Discussion of Amendments – Article 22, City of the Village of Douglas Zoning Ordinance; to repeal and replace Section 16.26 Signs and City of the Village of Douglas Sign Ordinance 111-D. (*Review of exempt signs; Prohibited Signs; General Regulations; Permits and Fees; Clarification; Fees; Penalties, Remedies, and Enforcement; Appeals.*)



Planning Director Wikar presented his recommendations regarding the “draft” Amendments to Article 22 and Section 16.26. Once the draft is concluded a Public Hearing will be scheduled. Planning members did a round robin discussion to make sure any of their questions were answered.

*Motion by Seabert, with support from McIntyre to close discussion. Motion carried by unanimous roll call vote.*

**G. Reports of Officers, Members, Committees**

Wayfinding steering committee kickoff meeting went well. Point Pleasant Marina is looking great, however there remains work to be completed. One member suggested encouragement be sent to City Council regarding purchasing the waterfront lots available. Regarding the affordable housing a member asked why this was not on the survey.

**H. Public Comment (limit 5 minutes)- No Public Comment received.**

**I. Adjournment**

*Motion by Seabert, with support from Heneghan, to adjourn.  
Meeting adjourned by voice vote.*

CITY OF THE VILLAGE OF DOUGLAS

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Paul Buszka, Chair

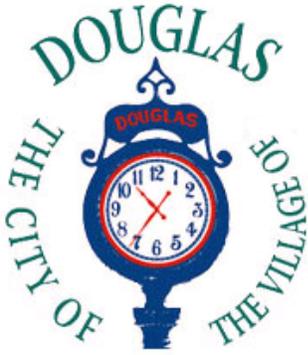
Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Pamela Aalderink, City Clerk

**Certification of Minutes**

**I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of the Village of Douglas held on August 11, 2021. I further certify that the meeting was duly called and that a quorum was present.**

\_\_\_\_\_  
Pamela Aalderink, City Clerk

\_\_\_\_\_  
Date



**To: Douglas Planning Commission**

**From: Nicholas Wikar  
Planning and Zoning Administrator**

**Date: September 3, 2021**

**Subject: Discussion of Amendments – Article 22, City of the Village of Douglas Zoning Ordinance; to Repeal and Replace Section 16.26 Signs and Village of Douglas Sign Ordinance 111-D (Continued)**

The Douglas Planning Commission shall make final recommendations to the Planning and Zoning Administrator to prepare final draft amendment language and prepare notice for public hearing occurring no sooner than legally permissible in September 2021 or thereafter, for recommendation to City Council of amendment to Article 22 of the City of the Village of Douglas Zoning Ordinance to repeal and replace Section 16.26 Signs and Village of Douglas Sign Ordinance 111-D.

Planning Commissioners shall review draft amendment language to clarify and correct provisions related to Permitted On-Premises Signs in Residential Districts; On-Premises Signs in Commercial or Industrial Districts; Signs Not to Constitute a Traffic or Fire Hazard; Portable or Movable Signs; Off-Premises Sign(s); Existing Nonconforming Signs; Nonconforming Signs Located in the Right-of-Way; Wayfinding and Municipal (Multi-Business) Directional Signs.

*There is no financial burden beyond cost of public notice associated with this recommended action of the Planning Commission.*

**It is recommended the Douglas Planning Commission continue discussion of draft language, as proposed, in continued consideration of Article 22 of the Zoning Ordinance, for recommendation to City Council to repeal and replace Section 16.26 Signs and Village of Douglas Sign Ordinance 111-D.**

## ARTICLE 22: SIGNS

### **Section 22.01 Intent**

The City of the Village of Douglas finds that signs and outdoor advertising are necessary to the commerce, health, safety, and general welfare of the public. Further it finds that failure to regulate the size, height, number, location and construction of signs within the City of the Village of Douglas may lead to poor identification of individual - businesses, deterioration of the appearance of the VillageCity, a decline in property values, and may create safety hazards to the public. The purpose of this Ordinance is to regulate signs and outdoor advertising in a manner which will minimize their harmful effects while permitting effective advertising and identification. It is further intended through the provisions contained herein to:

- 1) Give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives.
- 2) Reflect the primary purpose of signage as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
- 3) Promote signs that are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- 4) Avoid excessive property and use signing in order to give each use optimum visibility to passer-by traffic and if possible, to prevent ~~one a~~ sign from blocking the view of another sign.
- 5) Place and size signs in such a way that scenic views are respected and visual obstructions to the natural landscape are minimized.
- 6) Protect the character of the Village-City by encouraging the design of institutional, business, and industrial signs that reflect the Village's-City's favorable environment as a permanent and seasonal home community.
- 7) Maintain and enhance economic stability by retaining aesthetic appeal to tourists and visitors and encouraging sign design practices that will complement the VillageCity's character and natural environment.

### **Section 22.02 Signs ~~T~~to Have Permits:**

- 1) Permit Required. A Sign Permit shall be required ~~pursuant to Section 3 (2)~~ for the erection, construction, alteration or replacement of any sign; except as hereinafter provided, and all such signs shall be approved ~~by~~ the Planning and Zoning Administrator if, following review of an application, the proposed sign or signs are found to conform to the requirements of this Ordinance and all related Ordinances, including but not limited to the City of the Village of Douglas Zoning Ordinance, as well as the applicable Building and Electrical Codes.
- 2) Sign Permits. The Planning and Zoning Administrator shall maintain a supply of application forms for sign permits contemn space for the information needed to

ascertain conformance with this Ordinance and a supply of sign permits that specify that signs meeting the requirements of this Ordinance may be erected in the approved locations.

### **Section 22.03 Exempt Signs**

- 1) The following signs, upon review and determination by the Planning and Zoning Administrator as to number, size, materials, and placement, may be exempted from the sign permit requirements of Section 6-02022.05 and 7-022.06, provided such signs are otherwise in conformance with this Ordinance:
  - a) Political advertising related to a candidate running for office or a proposition up for public vote on a sign up to four (4) square feet in size for not more than thirty (30) days before an election. There is no limit on the number of political advertising signs, provided their placement conforms with all requirements of this Ordinance and the Douglas Zoning Ordinance, and further provided, all political advertising signs must be removed within ten (10) days ~~of~~ after an election. Not more than one (1) sign up to four (4) square feet in size may be placed on a lot or parcel for an indefinite period if the sign carries a political or other message unrelated to an upcoming election and has a message which is protected by the First Amendment to the U.S. Constitution.
  - b) Changeable message signs that do not exceed eighteen (18) square feet, for churches, public or semi-public institutions and/or schools in any zoning district.
  - c) Signs required by Federal or State agencies in connection with federal or state grant projects and programs in any zoning district.
  - d) Street name signs, municipal signs in the public interest, route markers and other public traffic control signs, signs established by or approved by state, county, or township units of government when necessary for giving proper directions or otherwise safeguarding the public, in any district. Such signs shall conform to standard shapes, sizes, color, lettering, and other specifications (including location) as set forth in the Michigan Manual of Uniform Traffic Control, where applicable, and said signs, upon review of the Planning and Zoning Administrator, may be erected in the right-of-way in any zoning district.
  - e) -Non-advertising signs erected by any organization, person, firm or corporation that are needed to warn the public of dangerous conditions and unusual hazards such as but not limited to; caving ground, drop-offs, high voltage, fire danger, explosives, severe visibility limits, etc., in any district, provided the sign size limitations of this Ordinance are observed.
  - f) Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, etc.) provided the sign size limitations of this Ordinance are observed.
  - g) Non-advertising signs demarking an historically significant place, building or area when sanctioned by national, state or local historic agencies, provided the sign size limitations of this Ordinance are observed. .

- h) Temporary ~~real estate~~ signs advertising personal property and/or real estate for lease, rent, or sale, not exceeding six (6) square feet ~~advertising a premise as being for lease, rent, or sale~~. It shall be removed within seven (7) days of the consummation of sale or lease transaction, or within six ~~(6)~~ months of the initial placement, whichever event occurs first. Such signs shall not obstruct traffic, or vision, or be hazardous to the public. In any non-residential zone, the maximum permitted size may be thirty-two (32) square feet.
- i) Integral - Names of buildings, dates of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure. .
- j) Private Traffic Direction - Signs directing traffic movement onto a premise or within a premise, not exceeding three (3) square feet in area for each sign. Illumination of these signs shall be permitted in accordance with the other provisions of this Ordinance regulating illumination of signs. Horizontal directional signs painted on paved areas are exempted from these standards.
- k) A maximum of three (3) signs of two (2) square feet each advertising a garage or yard sale may be erected on the day of the sale and must be removed promptly at the conclusion of the sale. Such signs shall not obstruct traffic, vision, or be hazardous to the public.
- l) Celebration or holiday banners in any district when limited to not more than two (2) per lot and displayed not more than four ~~(4)~~ weeks prior to the celebration or holiday and removed within seven (7) days following the celebration or holiday.
- m) ~~Multi-business~~Wayfinding and Municipal ~~and~~ Directional signs as provided in Section ~~13.022.12~~.
- ~~n5) Temporary~~ Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights, or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce charitable or civic events, the opening of a new type of business, or use by a new owner. Exceptions include:
- ~~o) Uniform municipal/community seasonal banners, n~~ National flags or symbolic flags of any institutions to a maximum of three (3) per lot with the height of flagpoles limited to thirty-five (35) feet; temporary banners announcing charitable or civic events; uniform community seasonal banners.

### **Section 22.04 Prohibited Signs**

- 1) Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement achieved by electrical, electronic or mechanical means, excepting those actions associated with time-temperature signs.
- 2) Signs affixed to or painted on trees, rocks, shrubs or similar natural features.

- 3) Signs that are insecurely fixed, unclear, in need of repair, or signs which imitate official traffic signals or traffic directional signs or devices.
- 4) Signs utilizing vehicles, trucks, vans, or other wheeled devices, or tripod or sandwich board signs, unless such signs are used for periods of less than seven (7) consecutive days in any ninety (90) day period or unless such signs have been approved by the Planning and Zoning Administrator as meeting a special purpose need and/or as being appropriate for the particular use.
- ~~5) Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner. Exceptions include: National flags or symbolic flags of any institutions to a maximum of three (3) per lot with the height of flagpoles limited to thirty five (35) feet; temporary banners announcing charitable or civic events; uniform community seasonal banners.~~
- ~~65) Signs which overhang, encroach, are placed, or extend into a dedicated public right-of-way, other than projecting signs in the Village Center Commercial District as approved by the Village Council. Any signs which trespass upon the public right-of-way do not qualify as nonconforming signs. Such signs shall be considered an illegal nonconforming use and shall be removed on or before January 1, 2008 unless permitted in Section 22.06 or otherwise approved by revocable license agreement by the VillageCity Council.~~
- ~~76) Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground and are located so as to constitute a safety hazard to vehicle traffic. The Planning and Zoning Administrator may rule on the hazard potential of any proposed sign structure and shall prohibit such sign or a modification upon finding the presence of a safety hazard.~~
- ~~87) Signs which advertise a use that no longer occupies the premises, and has not so occupied its premises for sixty (60) days. The message portion of said sign shall be removed by the owner or person responsible for the placement of the sign. The structure of said sign, if it is conforming, shall not be required to be removed. This sixty (60)-day provision shall not apply to a seasonal business that regularly occupies and returns to the premises.~~
- ~~98) Signs which are roof-mounted. A facade shall be considered part of the roof. Any portion of the structure of a building above the eaves shall be considered roof for the purpose of this section.~~
- ~~409) Any portable, "A-frame", "T-frame or inverted "T" signs with spider legs, with or without wheels where lettering can be changed, rearranged or altered without changing the face of the sign, except as provided in Section 9.0022.08.~~
- ~~4410) Plastic faced, interior lighted signs in any district except the C-2 and C-2A zone districts.~~

## **Section 22.05 Permitted On-Premises Signs in Residential Districts:**

- 1) A single on-premise sign shall be permitted on lots in Residential Districts as defined in the Douglas Zoning Ordinance, subject to the following restrictions:
  - a) Signs no larger than six (6) square feet in area shall be permitted for any of the following purposes:
    1. Sale or lease of personal property. However such a sign shall be removed within seven (7) days of the consummation of said sale or lease or within six (6) months of the initial placement, whichever event occurs first. Such signs shall not obstruct traffic, or vision, or be hazardous to the public.
    2. Identification of a use permitted by right (except for dwellings, see Section ~~6-022.05(d)-below~~), special use permit or a nonconforming nonresidential use
    3. Identification of a temporary use (of thirty (30) days or less) except as provided for temporary real estate offices in subsection b. following.
  - b) Signs advertising new subdivisions or, major developments may be permitted by the Planning and Zoning Administrator—for no more than one (1) year, provided they do not exceed sixty-four (64) square feet in area.
  - c) Public Institutions and churches permitted in residential districts shall comply with these same provisions. ~~See also Section 4.0(1)(c).~~
  - d) Identification signs for residences and for home occupations, except for Bed and Breakfasts as provided herein:
    1. May be attached to the structure or in the front yard.
    2. Shall be set back at least 15 feet from the right-of-way and all property lines.
    3. Shall not exceed two (2) square feet.
    4. May not exceed four (4) feet in height.
    5. May not be illuminated after 8 PM and all illumination shall have the lighting directed towards the ground with a shield to prevent light from being directed upwards.
    6. The sign may announce only the name and occupation of a building occupant, or the buildings name.
  - e) One (1) sign per street frontage, each not exceeding twelve (12) square feet in area designating an apartment complex or building, or multiple family or group housing complex, with a maximum height of four (4) feet above the ground, in the case of a free- standing sign, which may be either non-illuminated or illuminated non-flashing, provided the direct source of light is shielded in such a manner that it is not visible from the street or any adjoining residential property, and that said source of light shall be of a warm, non-glare type. ~~————~~

- f) All of the signs permitted in the residential districts shall be set back fifteen (15) feet from all property lines. Exemptions from this requirement, only, may be granted by the Planning and Zoning Administrator upon a written finding that compliance is impossible due to property and building configuration.
- g) Illumination, if used, shall not be blinking, fluctuating, or moving. Light rays shall shine only upon the sign or upon the property within the premises and shall not spill over the property line in any direction, except by indirect reflection.

**Section 22.06 On-Premises Signs ~~in~~ Commercial ~~or~~ Industrial Districts:**

- 1) Signs shall be permitted in Commercial and Industrial Districts as defined in the Douglas Zoning Ordinance subject to the following restrictions:
  - a) Signs shall pertain exclusively to the business carried on within the building or on the premises.
  - b) Signs shall be placed flat against the main building or parallel to the building on a canopy and may face only the public street or parking areas as part of the development. Signs shall not project above the roof line or cornice.
  - c) Signs painted or affixed to a building shall not exceed ~~ten~~ ten (10) percent of the surface area of the building face to which attached.
  - d) Signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties
  - e) Ground Support or Pylon Signs shall:
    - 1. Not obstruct a clear view of traffic.
    - 2. Not exceed one (1) per property frontage, regardless of the number of businesses, except as provided in Section ~~2022.06-7(3)(c)~~.
  - f) Changeable Message Boards: Are permitted in place of an identification sign or a freestanding sign, but the total area allotted to signs shall remain the same whether a wall sign or a freestanding sign.
- 2) On-premises signs within all Commercial and Industrial zoned districts shall comply with the following requirements and restrictions:
  - a) Identity sign(s) may be allowed on any exposed side of a building.
  - b) A business may use one (1) exposed side as the primary front. The sign area for the primary front shall be based on one ~~and~~ and one-half (1 ½) square feet per lineal foot of building or one-half (½) square foot per lineal foot of lot frontage whichever is smaller. Ribbon type signs including individual letters, may be utilized across the primary face of the building provided the maximum height does not exceed thirty-six (36) inches. All other signs on the building shall be on the basis of one (1) square foot per lineal foot of building frontage or one-half (½) square foot per lineal foot of lot frontage whichever is smaller. Except, as provided in Section

~~7.022.06~~(1)(c), total sign area on any exposed building face shall not exceed ten (10) percent of the area of that face.

- c) All signs, except as otherwise specified, shall be flat signs attached and parallel to the face of any building wall and shall not extend farther than fifteen (15) inches from the face of the building upon which it is attached, provided, however, that where a sign extends more than three (3) inches from the face of said wall, the bottom of said sign shall not be less than ten (10) feet above a public sidewalk and fifteen (15) feet above a public street or alley, ~~except one (1) sign per public entrance, nor more than two (2) square feet in area may be~~ affixed to the underside of a canopy or marquee provided it shall be at least eight (8) feet above the sidewalk.
- d) Projecting Signs are allowed in the ~~Village Center~~C-1 Commercial District provided that they do not exceed ten (10) square feet in total area; do not exceed the height of the building to which it is attached; is properly supported and, if the projecting sign overhangs over or into the public right-of-way, a revocable sign license agreement must be approved by the Village City Council.
- e) Where a building is not closer than a distance of twenty-five (25) feet from the primary street right-of-way, one (1) identity sign (either pylon or ground supported) may be permitted. When located in such a manner that no part extends beyond the property lines. When the use is located on, and has clearly defined entrances on two separate street frontages, each frontage is eligible for an identity sign as provided for in this section. As provided in this section, the total, sign and supporting structure may have a maximum height of thirty (30) feet in any district adjacent to or fronting on ~~Blue~~ Star Highway, and sixteen (16) in any district adjacent to or fronting on any other street or road.
- f) Gasoline service stations, motels, public or service garages, new and used car lots, garden shops, eating establishments and other similar uses which may be defined as highway-oriented or outdoor merchandising enterprises, and are located adjacent to Blue Star Highway, are permitted one (1) ~~identity~~ identity sign (either pylon or ground supported) in addition to the allowed wall sign or building mounted sign. The sign cannot exceed thirty ~~(30)~~ feet in height. The pylon or ground signs provided for in this Section, however, shall not be allowed when the businesses mentioned in this Section are located in a defined "Business Center".
- g) No sign shall obstruct or interfere with traffic or be hazardous to the public.
- h) Temporary signs, indicating service, products, trade information or other information (not including signs that are a part of dispensing equipment) shall not exceed six (6) square feet in the aggregate and shall not be located closer than ten (10) feet from any street or alley property line. Said sign may be in place for no more than thirty (30) days.

- 3) Sign Area. The following maximum sign area shall apply to all free standing, ground support, or pylon signs allowed as provided in this section:
  - a) For those signs in zones adjacent to and/or fronting on Blue Star Highway:
    - 
    - 1. Single business or use: Fifty-four (54) square feet.
    - 2. Business Center: Seventy-two (72) square feet.
  - b) For those signs in zones adjacent to and/or fronting on any other street.
    - 
    - 1. Single business or use: Thirty-two (32) square feet.
    - 2. Business Center: Forty-eight (48) square feet.
  - c) Additional special provisions: A Business Center only, if it has at least four hundred (400) feet of frontage on one (1) street, in single ownership, and:1s at least two (2) acres in size, may have a single sign of eighty (80) square feet. Or in lieu of that, two (2) signs of fifty-four (54) square feet, as long as the two signs are located at least 250 feet apart on the frontage.

**Section 22.07 Signs Not tTo Constitute Aa Traffic oOr Fire Hazard:**

- 1) Traffic Hazard: No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner s to interfere with. mislead or confuse traffic.
- 2) Fire Hazard: No-sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

**Section 22.08 Portable Or Movable Signs:**

Any free-standing sign not permanently anchored or secured to either a building or the ground, including but not limited to sandwich style, A frame, T frame, or inverted T shaped structures, including those signs mounted on wheeled trailers, shall be permitted only in accordance with the following provisions:

- 1) Use: Portable signs are permitted for grand openings, advertising charitable or community-related events and the like, but may not be used on residential property. Being temporary in nature, such portable signs may be permitted for a period not to exceed thirty (30) days
- 2) Lighting: Light shall shine only upon the premises, and shall not spill over the property line- in any direction, except by indirect reflection. In addition, no flashing or colored lights will be allowed.
- 3) Placement: All portable signs shall be located no closer than ten (10) feet to the street right-of-way line.
- 4) Size: Any portable signs shall not exceed thirty-two (32) square feet in area.

- 5) Number. Only one (1) portable sign may be established on a property.
- 6) Parked Vehicle as Sign: No vehicles shall be parked or displayed in such a way so as to be used as a sign.
- 7) Sign Permit Required. ~~—~~ **No charge**

### **Section 22.09 Off-Premise Sign**

Outdoor advertising structures and billboards other than those signs which exclusively advertise businesses on the premises on which they are located, are considered off-premises signs and may be permitted only by the Planning Commission following review according to the Special Use Permit process in Article ~~XXV-25~~ of the City of the Village of Douglas -Zoning Ordinance.

- 1) Off-premises signs shall comply with the following requirements and restrictions:
  - a) Off-premises signs shall be prohibited, except on those parcels of property zoned for Commercial or Industrial use which lie directly adjacent to the Blue Star Highway between the South ~~Village-City~~ limits and the North ~~Village-City~~ Limits, or directly adjacent to the 1-196 Expressway.
  - b) Size and spacing requirements for all off-premise signs along Blue Star Highway shall be as follows:
    1. Overall sign area = 50 sq. ft.
    2. Maximum sign height = 10 ft.
    3. Maximum sign width = 10 ft.
    4. Maximum sign structure height = 25 ft.
    5. Spacing between signs = 300 ft. minimum
  - c) Off-premises signs shall not block any permitted on-premises sign.
  - d) Size and spacing requirements for off-premise signs along I-196 shall be as follows:
    1. Not more than one (1) billboard or other off-premises sign shall be located per linear mile of I-196, regardless of the fact that such billboard may be located on different sides of the subject highway. Linear separation shall be limited to the boundaries of the VillageCity. V-type structures shall be considered as two billboards and a double-faced (back-to- back) structure shall be considered one (1) billboard. The required minimum distance between permitted off-premises signs shall be that distance measured on a direct line from sign to sign.
    2. Billboards and other off-premise signs shall be located not closer than ~~one--~~ hundred (100) feet from a street or road right-of-way and two-- hundred (200) feet from any street or road rights-of-way which intersect.
    3. Overall sign area ~~=~~ 300 sq. ft.
    4. Maximum sign height = 20 ft.
    5. Maximum sign width = 20 ft.

6. Maximum sign structure height = 20 ft.
- e) Off-premise signs may be illuminated providing, however, that said source of illumination is not visible beyond the lot lines of the parcel upon which the structure is located and shall be directed downward.
  - f) Off-premise signs shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure and preservation of structure with paint or other surface finishing material. If an off-premise sign is not maintained, written notice of any disrepair shall be issued by the Planning and Zoning Administrator to the owner of said structure. If the disrepair is not corrected within thirty (30) days, said structure shall be removed at the owner's expense.
  - g) The off-premise sign must be constructed in such a fashion that it will withstand all wind and vibration forces which normally can be expected to occur in the vicinity.

### **Section 22.10 Existing Nonconforming Signs:**

It is the intent of this Section to permit the continuance of a lawful use (~~see Section 5(6)~~) of any sign or outdoor advertising structure existing at the effective date of adoption of this ~~Section Ordinance~~, although such sign or outdoor advertising structure may not conform with the provisions ~~of this Section herein~~. It is the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs and outdoor advertising structures within the City of the Village of Douglas shall be subject to the following requirements:

- 1) Structural Changes: The faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or outdoor advertising structure conforms to the provision of this ~~Article Section~~ for the use it is intended, except as otherwise-provided for.
- 2) If a nonconforming sign is destroyed it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ~~Article Section~~, and the remnants of the former sign structure shall be cleared from the land or building on which it was supported. For purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the damaged sign.
- 3) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off- premise sign under circumstances where such a sign would not be allowed). However, if the name of the business or organization changes, the face of the sign may be changed only as provided in ~~subsection Section 22.10(1)-above~~.

- 4) If a nonconforming sign, other than an off-premise sign- advertises a business, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign and its independent supporting structure shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having such control over such sign.
- 5) Any other provisions of this Ordinance notwithstanding, ~~an~~ all signs which are erected or are in place on the effective date of the Ordinance, but which do not comply with the provisions of this Ordinance, ~~shall be brought into compliance within ten (10) years from the effective date of this Ordinance; except that~~ and signs in nonconformance with the City of the Village of Douglas sign regulations, ~~Ordinance 111, adopted January 1987,~~ shall ~~be brought into~~ demonstrate compliance and conformance with these provisions ~~by one year from the effective date of this Ordinance upon application for Sign Permit resultant of any desired or necessary changes, alterations, substitution, repair, replacement, and other maintenance.~~
- 6) Alteration, Erection, or Placement of Signs: No person, firm, corporation, partnership, or other legal entity, shall alter, enlarge, or erect a sign except in accordance with the provisions of this Ordinance. Nonconforming signs, however, may be repaired, repainted, or improved ~~within the ten (10) year grace period (see subsection 5 above),~~ however, they may not be enlarged beyond their existing size.

#### **Section 22.11 Nonconforming Signs Located in the Right-Of-Way:**

- 1) Any signs existing in the public right-of-way of the City of the Village of Douglas, on the effective date of this Ordinance which ~~on or before January 1, 2008~~ do not have a revocable license agreement with the ~~Village-City~~ Council are, ~~under Section 5(6),~~ illegal nonconforming signs and are to be removed or relocated to come into compliance with the provisions of this Ordinance.
- 2) The owner of any signs existing in the public right-of-way of the City of the Village of Douglas, on the effective date of this Ordinance which do not have a revocable license agreement with the ~~Village-City~~ Council shall within sixty (60) days of notice by the ~~Village-City~~ provide the ~~Village-City~~ Council with proof of liability insurance with sufficient policy limits, naming the City of the Village of Douglas as an additional named insured thereby indemnifying the ~~Village-City~~ for any liability, loss, costs, damages or expenses that may be paid by the ~~Village-City~~ to persons as a result of damage to persons or their property due to the placement of the sign in the right-of-way.
- 3) Failure to provide this insurance, or any lapse in the coverage provided therein, or failure to enter into a revocable license agreement ~~by January 1, 2008~~ may result in the ~~Village-City~~ taking actions, as provided in this Ordinance and by any other lawful enforcement provisions, to abate said sign, including its immediate removal.

- 4) The ~~Village-City~~ Council may, at its discretion, review any sign effected by this ~~Section-Ordinance~~ on a case-by-case basis to consider extenuating health, safety and public welfare factors which may cause the requirement for immediate compliance with the Ordinance to be extended.

### **Section 22.12 Wayfinding and Multi-Business Municipal Directional Signs**

The City of the Village of Douglas may provide space, select the theme, provide, if available, lighting for, and maintain in good condition the base structure for wayfinding or multi municipal non-business directional signs ~~at the following locations:~~

- ~~a. Intersection of Wiley and Blue Star.~~
- ~~b. Intersection of Ferry and Center~~
- ~~c. Intersection of Center and Blue Star~~
- ~~d. Intersection of Lakeshore and Center~~

~~Business owners will be responsible for purchase and upkeep of their individual signs, size limited to 8" high X 48" long slats.~~

### **Section 22.13 General Regulations**

The following general regulations shall apply to all signs:

- a) The construction and materials used in all signs shall conform to State Construction (Building) Code.
- b) All signs shall be maintained in good repair in terms of structure and appearance. Any sign which is applicable to a business which has been discontinued shall be eliminated by the property owner within sixty (60) days after said discontinuance, except as provided for seasonal uses as noted in Section ~~5(8)22.04(7).~~ This provision shall not apply to a conforming independent sign structure.
- c) An electric permit, to be issued by the Building Inspector, shall be required for any electrical installation in connection with any sign installation.
- d) All permits issued under this Ordinance shall be void if the sign for which it is issued is not erected or placed within three (3) months from date of issuance.

### **Section 22.14 Permits ~~a~~And Fees**

No signs except those specifically exempted under Section ~~422.03~~ of this Ordinance shall be erected or placed without first obtaining a sign permit from the Village Planning and Zoning Administrator. Applications to install either temporary or permanent signs shall be on the ~~Village-Sign~~ Permit Application form and may be obtained from the ~~Village-City~~ Clerk. A sign may be erected or placed after payment of the required permit fee and issuance of the permit evidencing compliance with this Ordinance. If the Planning and Zoning Administrator finds that the proposed sign is not in compliance with the Ordinance, the deficiencies shall be described on the application and it shall be returned to the applicant. The applicant may submit an amended application to the Planning and Zoning

Administrator showing compliance with the Ordinance, and the Planning and Zoning Administrator shall then proceed to issue a permit. No additional fee shall be charged when an amended application is submitted to the Planning and Zoning Administrator.

### **Section 22.15 Clarification**

Any person seeking a determination as to whether a proposed sign is exempt under Section 422.03 shall request in writing a determination of status from the Village-Planning and Zoning Administrator, who shall issue a letter of determination in response thereto. The Planning and Zoning Administrator may consult with the ~~Village-City~~ attorney Attorney concerning matters of determination under this Section if, in his discretion, he or she feels it appropriate or necessary to do so. The Planning and Zoning Administrator shall maintain a permanent file of any letters of determination so issued.

### **Section 22.16 Fees**

Permit fees shall be established by the ~~Village-City~~ Council and shall be set forth in the Village-City "Schedule of Fees".

### **Section 22.17 Penalties, Remedies, and Enforcement**

The Planning and Zoning Administrator of the City of the Village of Douglas shall be responsible for the administration of this Ordinance. Failure of any person to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person(s) who violate this Ordinance or fail to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred (\$500.00) dollars or imprisoned for not more than 90 days, or both. Each day such violation continues shall be considered a separate offense.

- 1) All penalties remedies, and enforcement relative to the provisions of this Ordinance shall be in accordance with the applicable provisions this Ordinance.
- 2) The person upon whom notice to abate a non-permitted sign is served, shall have five (5) days from receipt of said notice to abate the same. Upon failure of the person to comply or apply to the City of the Village of Douglas, or it's designated agent in writing, the ~~Village-City~~ shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. These costs shall then be assessed against the property owner.

### **Section 22.18 Appeals**

Any person, corporation, partnership, or other legal entity, which feels aggrieved by a decision of the Planning and Zoning Administrator or Planning Commission shall have the right of appeal to the City of the Village of Douglas Zoning Board of Appeals~~Council~~.

12/10/19  
mtg

**CITY OF THE VILLAGE OF DOUGLAS SIGN ORDINANCE DRAFT December 2019**

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## CITY OF THE VILLAGE OF DOUGLAS SIGN ORDINANCE

### ARTICLE I.

#### Sec. 1.1 Intent & Purpose

The City of the Village of Douglas is both a year-round and a resort community with an economic base that relies heavily on tourism. To preserve the town as a desirable community in which to live, vacation and do business, a visually attractive built environment is of significant importance and the regulation of signs is one method of achieving this.

The Douglas City Council hereby enacts this Ordinance to fairly regulate and control the time, placement, manner, and maintenance of signs within the City of the Village of Douglas and to provide penalties for violations of such regulations. The provisions herein contained are intended to promote the general welfare and protect the health and safety of the general public while further enhancing the built environment and promoting the continued well-being of the community. This Ordinance shall be known as the "Douglas Sign Ordinance."

The City of the Village of Douglas finds that signs and outdoor communications are necessary to the commerce, health, safety and general welfare of the public. It further finds that regulation of the size, height, number, location and construction of signs within the City of the Village of Douglas is conducive to maintaining the appearance of the City, property values and public safety, and to identifying individual businesses. The purpose of this ordinance is to comprehensively regulate signs and outdoor communications in a manner that enhances the effectiveness of all public communication and advertising while minimizing its impact on the visual environment and user enjoyment of public spaces.

The City intends through the provisions contained herein to:

- (A) Maximize the value of commercial signage as a means of locating and identifying commercial establishments providing goods and services, while, at the same time, discouraging the use of commercial signage to sell goods and services.
- (B) Encourage the construction of commercial signs of high-quality materials which are aesthetically pleasing and are compatible with their natural surroundings and with the buildings they identify.
- (C) Avoid the creation of a distracting atmosphere which can result when businesses compete for attention through the use of commercial advertising signs.
- (D) Protect, preserve and enhance the unique aesthetic character, beauty and small town charm of Douglas, and thereby encourage the continued economic development within the community.
- (E) Improve pedestrian and traffic safety and eliminate physical and visual clutter caused by signs

which compete for the attention of pedestrian and vehicular traffic.

- (F) Further the objectives of the City's Master Plan.

These regulations take into consideration the total available communications network in the community including, but not limited to, cable and broadcast television and radio; electronic mail and information services; newspapers; magazines; direct mailing, trade publications and catalogs; telephone solicitation, door-to-door solicitation; artworks and artistic performances; and public demonstrations, parades, rallies, marches, and pickets.

## ARTICLE II

### Sec. 2.1 Applicability and Provisions

- (A) A sign may be erected, placed, established, painted, created or maintained in the City of Douglas only in conformance with the standards, procedures, exemptions and other requirements of this Ordinance.
- (B) Notwithstanding any other provision of this Ordinance, no sign shall be subject to any limitation based on the content of the message contained on such sign.
- (C) All signs shall comply with applicable building and electrical code requirements.
- (D) Per International Building Code (IBC) Section 1609.1, applications for new freestanding signs with faces larger than forty (40) square feet shall include wind load calculations stamped and signed by a certified engineer stating that the sign can withstand winds of up to 130 miles per hour.
- (E) Noncommercial signs shall be allowed in all zoning districts and may be substituted for any sign expressly allowed under this Ordinance. Noncommercial signs shall be subject to the same permit requirements, restrictions on size and type, and other conditions and specifications as apply to the sign for which they are substituted.

*has wants  
out  
not clear*

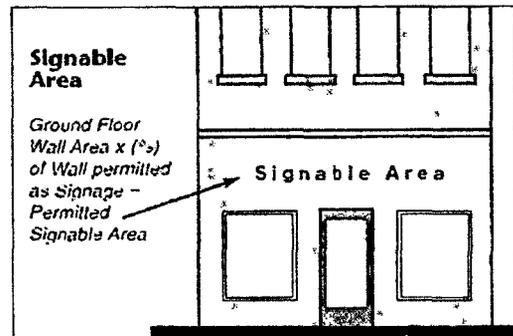
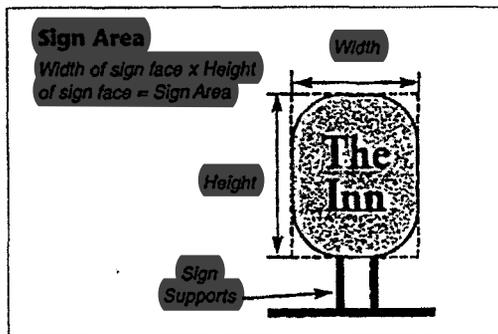
## ARTICLE III

### Sec. 3.1 Definitions

For purposes of this Ordinance, the following words shall have the meanings respectively ascribed to them, except where the context clearly indicates a different meaning:

**Abandoned Conforming Sign.** A sign pertaining to a business, lessee, owner, product, or activity that has not been available upon the premises where such sign is displayed for a period of one year or longer and which otherwise conforms to the requirements of this Ordinance.

an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. That portion of the sign supports or uprights that exceed in surface area 60% of the total permitted sign area and is visibly parallel to the sign face shall require approval of the Planning Commission as part of a special-condition sign. Both sides of a sign structure may be used for sign purposes, provided the sides have a one hundred and eighty (180)-degree, back-to-back relationship. In the case of a broken sign (a sign with letters individually mounted to a wall), the total surface area shall be measured by multiplying the horizontal distance between the outer edges of the two (2) furthestmost letters by the maximum vertical height of any letters in the sign.



**Sign Face.** The portion of a sign upon, against, or through which the message is displayed.

**Sign Supports or Uprights.** A non-illuminated structure that is used to brace, support, or hold a free-standing sign.

**Swooper.** A type of removable sign intended to act as a banner, but move as a flag.

**Temporary Sign.** A sign intended to be displayed for a limited period of time.

**Trailer Sign.** A temporary or permanent sign mounted on a trailer or other wheeled device.

**Unattended Sign.** Any sign that is not hand-held or carried by a person.

**Wall Sign.** A sign that is attached, mounted, or painted directly onto a building wall.

**Warning Sign.** Any sign that alerts persons to safety hazards or potential hazards.

**Window Area.** The area of a window as measured by the maximum height and maximum width of the window glass, including glass windows in doors.

**Window Sign.** A sign that is either affixed to or within three (3) feet of a door or window interior.

### Sec. 3.2 Zoning References.

For purposes of this Ordinance, "lot," "lot line," "front yard," and similar words shall be as defined in

the City of the Village of Douglas Zoning Ordinance.

**Sec. 3.3 Illustrations.**

The illustrations contained herein are for convenience purposes only. In the event that a conflict arises between the meaning of any text and its corresponding illustration, the text shall control.

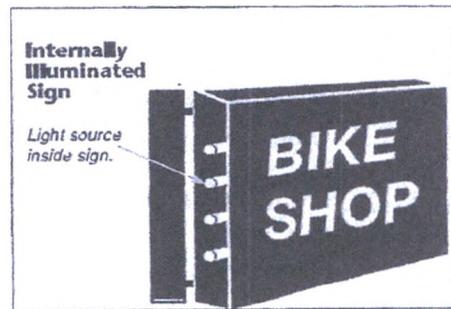
**ARTICLE IV.**

**GENERAL PROVISIONS**

**Sec. 4.1 Provisions Applicable to All Districts.**

The following provisions shall apply to all districts within the City:

- (A) **Pre-existing Nonconforming Signs.** Any permanent sign that conformed with a sign ordinance in effect at the time said sign was installed or constructed, and which was installed per an approved sign permit may be maintained, subject to the provisions herein contained. See Article X.
- (B) **Sign Construction and Assembly.** The entire sign shall be made of materials that maintain an integral character, rather than an assemblage of different sign types and materials. Changeable-message signs shall be an integral part of the face of any free-standing sign if applicable.
- (C) **Sign Installation.** No sign shall be placed, displayed, or installed upon property without the consent of the property owner. Wall-mounted signs, overhanging signs, and projecting nameplates shall be thoroughly secured to a building by metal anchors, bolts, supports, rods, or braces and shall comply with building code requirements for wind loads, snow loads, and dead loads. Independently-mounted letters, figures, or similar message elements shall be safely and securely attached to the sign face and building wall.
- (D) **Sign Maintenance.** Signs shall be maintained at all times in a clearly legible and safe condition and shall be kept in good repair. Lighting for a sign shall be maintained in working order.
- (E) **Illumination of any Sign.**
  - (1) Exterior lighting shall be provided from an external light source attached to the sign and directed only to the face of the sign. Sign light sources shall not exceed 150 watts per sign face and shall be shielded in order to prevent visible glare to passing motorists and shall not be directed so as to trespass or



*put dark sky in Z.O.*

*add dark sky fix for LED*

*move signs to Z.O. decide Z.O. / PC issue*

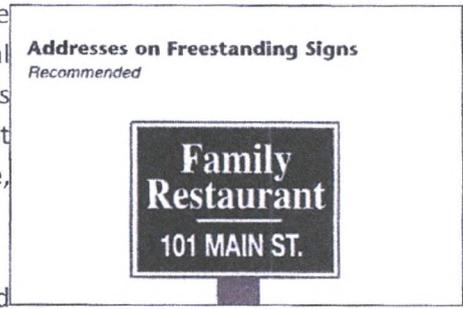
encroach in or upon neighboring properties.

(2) Interior illumination is only permitted for individual numbers, letters, or logos on a sign. All illumination shall be steady and stationary in source and intensity.

(3) Neon signs not exceeding 25% of the inside window area shall be permitted only as a special condition sign following review of the Planning Commission (See Article IX).

*counts as window sign  
per business*

(F) **Address Sign.** One (1) address sign shall be placed at the main entrance to each principal structure on any property such that same is plainly legible and visible from the street fronting the property, to assist ambulance, police and fire protection response.



Wall-mounted address signs shall not exceed two (2) square feet in surface area, and at least one such sign shall show the numerical address of the premises and shall be visible from the street for which the address applies. Address signs identifying a business shall have a minimum height of six (6) inches.

Residential address signs shall have a minimum height of four (4) inches. Address numbers shall have a minimum width of one-half inch and shall be Arabic numbers or English alphabet letters contrasted with their background to enhance visibility; provided, however, that at least part of the address display shall be numerical. Freestanding address signs may be provided at single-family residences, not to exceed two (2)-square feet in area and five (5) feet in height. Commercial, industrial, institutional, and multi-family uses are encouraged to include an address sign or signs on any free-standing sign on the lot as well.

*outside this process  
need addresses along beaches for safety  
backdoor of road*

**Beachfront Residential address signage**

*to high?*

(G) **Sign in or Over a Right-of-Way.** The placement of any sign that projects more than forty-two (42) inches from the building and overhangs a public right-of-way shall be prohibited unless approved by the governmental unit having jurisdiction over that right-of-way and upon satisfaction of all requirements in this Ordinance and the City Code. All signs encroaching upon a right of way shall be subject to a Revocable Sign Agreement as provided by the City of Douglas. Such signs shall meet the requirements of the Revocable Sign Agreement, and shall meet the sign standards of the applicable zoning district, be located outside of the clear sight area, and shall not encroach upon any City of Douglas non-motorized trails, which include the Blue Star Trail and the Beach to Bayou trail.

*we have these*

- (H) **Signs, awnings, mansards, canopies, or marquees** over a public sidewalk may not project more than five (5) feet from the building to which they are attached and must be a minimum of seven feet, six inches, higher than the sidewalk grade, for projections of 12 inches or more. Temporary signs (such as real estate, political event, and residential event signs) shall not be placed in the public right-of-way.
- (I) **Obstructions to any Door, Window, Sidewalk, or Fire Escape.** No sign shall be erected, located, or maintained so as to prevent ingress or egress from any door, window, sidewalk, or fire escape.
- (J) **Sign Constituting a Traffic Hazard.** No sign shall be placed, displayed, or illuminated so as to obstruct or impair driver vision. A sign shall not obstruct the view of any official traffic sign, traffic signal, or traffic marking. Signs that, by reason of their location, shape, size, or color, can be confused with an official traffic sign, signal, or marking, shall not be permitted. Signs which use beacons, spotlights, or searchlights visible from public rights-of-way are prohibited.
- (K) **Abandoned Sign.** Abandoned signs shall be removed in accordance with their status as to conformity. Where such signs are nonconforming in size, or height, or other features, they shall be removed within 90 days. Where the sign is conforming but abandoned, they shall be removed after one year. Any abandoned conforming sign or abandoned nonconforming sign or sign structure may be removed by the City at the expense of the property owner. *stay as is*
- (L) **Sign Constituting a Public Nuisance.** If a sign is determined to be a public nuisance, as defined in Chapter 95 of the City of the Village of Douglas Code of Ordinances, it shall be abated in accordance with the procedures provided in Chapter 95.

**ARTICLE V. PROHIBITED SIGNS**

**Sec. 5.1 Signs Prohibited.**

The following interior and exterior signs are prohibited in all districts, except as otherwise provided in this Ordinance:

- (1) Signs which incorporate, in any manner, flashing or moving lights or lettering.
- (2) Phosphorescent signs.
- (3) Dynamic Displays as defined in Section 3.1 (22). This section does not prohibit barber poles designated as historic signs, nor official community informational kiosks.
- (4) Roof-mounted signs or any sign which projects above any portion of a roof.

*check into it*

*DDA sign OK*

- allow it?*
- (5) Signs painted, posted, or mounted on public utilities or telephone or utility poles.
- put both together*  
 (6) Any sign or sign structure that the City determines is structurally unsafe.
- (7) Interactive signs. This section does not prohibit official community informational kiosks.
- (8) Motion or sound activated signs with speaker box.
- (9) Off-premise signs unless approved as a special condition sign by the Planning Commission pursuant to Article IX of this Ordinance.
- (10) Permanent window signs on upper stories of buildings. *ok subject to*
- coming up later*  
 (11) Any sign, decal, image or symbol which covers more than twenty (20%) (OR 10%??) of the total area of any window. *25%*
- (12) Streamers, pennants, spinners, or balloons.
- (13) Signs within the right-of-way, unless approved via Revocable Sign Agreement, pursuant to Section 4.1, G.

**ARTICLE VI.**

**PERMITTED TEMPORARY SIGNS**

**Sec. 6.1 Permitted Temporary Signs in All Districts.**

The following non-illuminated, temporary signs are permitted in all districts:

- (1) **Real Estate Signs.** A single real estate sign that is free-standing in a private yard, or mounted on a private building wall, shall be permitted on the property intended to be rented, leased, and/or sold, provided that the sign is removed within fifteen (15) days after the sale, lease, or rental of the property.

*25*  
 A wall-mounted real estate sign shall be permitted with the area restrictions noted below and only mounted to the ground floor wall of a building. Window signs are permitted as ~~twenty percent (20%)~~ *25%* or less of the window area, only in lieu of a free-standing sign and limited to one window sign per building wall.

For the purpose of publicizing a property open house, both on-premise and off-premise signs are permitted to be displayed only during the hours of the open house. Off-Premise signs advertising an open house for a specific property shall be limited to two (2) and shall not be displayed, placed, or mounted in the public right-of-way or on public property.

Only one real estate sign shall be permitted per lot or parcel. Where a corner lot is for sale, a single real estate sign shall be placed on the corner of the site. Real estate signs shall be built

and installed in accordance with the following schedule:

**Table 1: REAL ESTATE SIGNS**

ZONING DISTRICT	NUMBER OF SIGNS	MAXIMUM HEIGHT IN FEET	MAXIMUM SIGN AREA IN SQ. FT.
R-1, R-2, R-3, R-4, R-5, R-6	One (1) per property	Six (6)	Six (6)
C-1, C-2, LI	One (1) per property	Six (6)	Six (6), for split listings, up to eight (8) square feet shall be provided, allowing for up to four (4) square feet per listing agent.

*blended these signs into same size/shape*

- (2) **Construction Signs.** A single construction sign for each development project shall be permitted on a construction site per lot or project. Such a sign shall be removed by the owner or lessee of the property within thirty (30) days of the final inspection of the building or site by the City's building department. Such signs shall have a maximum height and area in accordance with the following schedule:

**Table 2: CONSTRUCTION SIGNS (Freestanding ONLY)**

TYPE OF CONSTRUCTION	NUMBER OF SIGNS	MAXIMUM HEIGHT IN FEET*	MAXIMUM SIGN AREA IN SQ. FT.
Single-Family	One (1) per lot or project	Four (4)	Six (6), thirty-two (32) permitted if more than five homes being built
Multi-Family	One (1) per lot or project, for developments with more than 4 buildings, an additional sign shall be permitted	Six (6)	Thirty-two (32)
Commercial and Industrial	One (1) per lot or project	Six (6)	Thirty-two (32), and may be divided into up to six (6) signs of four (4) square feet in area.

- (3) **Residential Event Signs.** For publicizing a single event such as a garage sale, yard sale, estate sale, or moving sale, residential-event signs, not to exceed six (6) square feet or six (6) feet in height, are permitted for a period not to exceed seven (7) days in a ninety (90) day period. Off- premise residential-event signs shall not be displayed, placed, or mounted on public property.
- (4) **Political Event Signs.** Political-event signs are permitted on private property only and shall not exceed six (6)-square feet in area and four (4) feet in height. Political-event signs shall be removed within forty-eight (48) hours following the political event to which the sign pertains.
- (5) **Promotional Event Signs-Community.** Promotional-event signs that provide directions to a community event in the City, which is determined to have a community benefit, may be permitted for a period not to exceed seven (7) consecutive days. Signs for public events shall not exceed six (6) square feet in area and six (6) feet in height. Up to six (6) signs are permitted. Signs shall not be located within a right-of-way, unless permitted by the government unit having jurisdiction over such right-of- way. Signs on private property not owned by the applicant, shall have written permission by the property owner. Promotional-event signs shall be removed within 48 hours after the event that they identify.
- (7) **Attended, Signs.** Attended signs such as hand-held political placards and demonstration pickets shall be permitted, subject to all applicable local, state, and federal laws. Such signs shall not exceed six (6) square feet in area.
- (8) **Promotional Event Sign or Banner.** A temporary sign or banner advertising short-term sales, promotions, or special events on private property and regulated by Section 8.1(3).
- (9) **Removable Signs.**
- (a) **Swoopers.** The following shall apply:
- (1) Only one (1) swooper per business shall be permitted within the front yard in the C-2 district when the property does not contain a freestanding sign within the right-of-way. For businesses with an approved Revocable Sign Agreement for a freestanding sign in the right- of-way, a swooper shall not be permitted.
  - (2) A swooper shall be located in the front yard.
  - (3) A swooper shall be displayed during the hours of operation only.
- (b) **Promotional Flags.** <sup>Banner</sup> Flags displayed on the exterior of a building, or in the adjacent yard area.
- (1) Only one promotional flag shall be permitted per establishment.

- (2) Promotional flags shall be displayed during the hours of operation only.
- (3) Promotional flags must clear 7'6" if they project into the right-of-way and above a public walkway.
- (4) Promotional flags which are attached to a building shall not exceed six (6) square feet in size.
- (5) No promotional flag shall be larger than six (6) square feet in size.
- (6) <sup>hammer</sup> Not more than one promotional flag shall be placed in the yard area of any property or parcel, except that the Zoning Administrator may approve up to one additional flag where the property has frontage on Blue Star Highway and the principal building on site is set back 100 feet or more from the Blue Star right of way. *but # 4? for every*
- (7) <sup>excess</sup> All promotional flags or shall be secured in such a manner to handle wind shear and severe weather, or shall be taken indoors.
- (8) No promotional flags shall be installed in the public right of way without a permit for temporary signage from the Zoning Administrator which indicates the approved size and location of the flag. Not more than one flag per property may be placed within the right of way.

(c) **Sandwich-Board Signs.** Permitted only as required in Article VIII.

ARTICLE VII.

PERMANENT SIGNS

Sec. 7.1 Permitted Permanent Signs.

The following permanent signs are permitted in all districts, subject to the restrictions herein contained and shall not require permits:

- (1) **Governmental Signs.** Governmental signs of a branch of local, state, or federal government, including traffic or similar regulatory devices, or signs required to be maintained or posted by law or governmental order, rule, or regulation.
- (2) **Flags or Emblems.** Flags or emblems, provided that the height of any flagpole shall not exceed thirty (35) feet. Parcels having fewer than one hundred (100) primary street-frontage feet shall be permitted one permanent flagpole, and parcels having more than one hundred (100) feet of primary street frontage shall be permitted one permanent flagpole for each one

*delete promotion?  
content*

*how wide are sites  
100' on Blue Star*

*changing function*

hundred (100) feet of primary street frontage, not to exceed a maximum of three (3) flagpoles. Temporary displays for periods not exceeding seven (7) days in any ninety (90)-day period may exceed this standard.

- (3) **Commemorative Signs.** Commemorative signs such as cornerstones, historical markers, memorial plaques or tablets, and the like.
- (4) **Warning Signs.** Warning signs such as "No Trespassing," "No Hunting," "Danger," and "Beware of Dog," not exceeding two (2)-square feet in area and no more than one (1) sign per two hundred (200) feet of property frontage. *2500*
- (5) **Permanent Window Signs.** A business shall be permitted interior signs (including neon) that occupy not more than ten percent (10%) of the total window area of the first-floor level in C-1, C-2, and L-1 districts. The total permanent window signage for a building shall not exceed ten (10) square feet. Neon signs exceeding 10 percent (10%) of the window area shall be reviewed as special-condition signs (Article IX). [section 4.1.(E)(3) says that all neon signs are permitted only as a special condition sign following review of the planning commission]
- (6) **Neighborhood Identification Sign.** A neighborhood identification sign shall be permitted at the entry or gateway to the neighborhood and shall not exceed 48 square feet in area nor 6 feet in height.

*possibly cut*

*takeout*

*PC*

*neon OK but not moving*

## ARTICLE VIII.

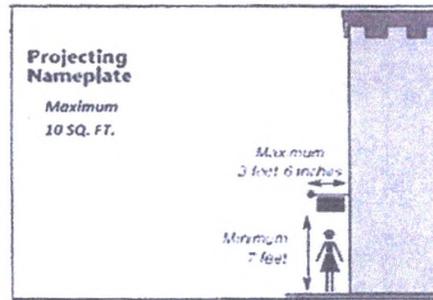
### SIGNS REQUIRING A PERMIT

#### Sec. 8.1 On-Premise Signs.

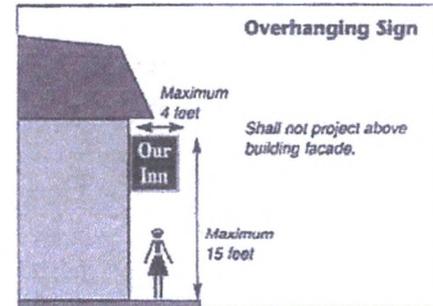
The following on-premise signs may be erected, altered, or relocated in accordance with the regulations of this section and subject to the permit requirements of Article XI.

- (1) **Projecting Nameplate Signs.** One projecting nameplate sign shall be allowed for each ground-floor use that fronts a public right-of-way or alley and one projecting nameplate sign shall be allowed for each below-ground-floor use that has direct access to a public right-of-way or alley, subject to the following conditions:
  - (a) The projecting nameplate shall not extend beyond three feet, six inches (3'6") from the building wall;
  - (b) The projecting nameplate shall not be internally illuminated;
  - (c) Projecting nameplates may be permitted in the C-1, C-2 districts only; and

- (d) Projecting name plates shall be a minimum of 7' 6" feet above finished grade and a maximum of 10 feet above finished grade. No projecting nameplate shall be larger than ten (10) square feet in size. [inconsistent with Article IV (H) which requires signs a minimum of 7'6" above grade]



- (2) **Overhanging Signs.** One Overhanging Sign per commercial building shall only be permitted in the C-1 and C-2 districts where a lot does not or cannot (due to setback restrictions) have a free-standing sign. Projecting nameplates meeting the area and height requirements of Article VIII, section 8.1 (1) may be substituted for the overhanging sign, provided that there is only one (1) such nameplate per ground-floor use, or per use below ground with direct access to a public right-of-way.



- (a) Height and area of overhanging signs are restricted according to the following schedule:

**Table 3: OVERHANGING SIGNS**

ZONING DISTRICT	NUMBER OF SIGNS	MIN. HEIGHT IN FEET	MAX. HEIGHT IN FEET	MAXIMUM AREA IN SQ. FT.
C-1	One (1) per ground floor use	Nine (9) when within a public right-of-way 15' when over private	Fifteen (15)	Ten (10)
C-2	One (1) per ground floor use	Nine (9) when within a public right-of-way 15' when over private	Fifteen (15)	Twelve (12)

- (b) No part of an overhanging sign shall exceed the height of the building facade or extend more than **forty-eight (48)** inches in depth from the building facade.
- (c) Such signs shall not be mounted on the corner of a building or be closer than four (4) feet from the corner of the building.

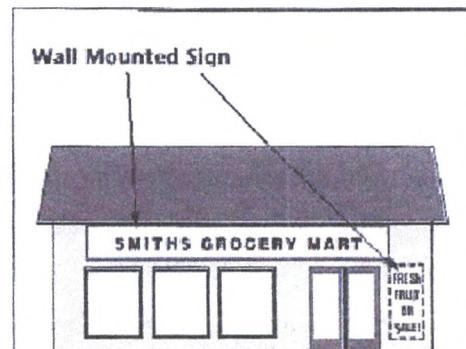
**(3) Promotional Event Sign or Banner**

Signs or banners for advertising short term sales, promotions or special events, are allowed on private property within the City of Douglas only under the following conditions:

- (a) A permit shall be required to display any promotional event sign or banner.  
The permit application shall specify dates of display and a mock-up of the proposed sign or banner and placement.
- (b) Display period cannot exceed 14 days in a 120-day period.
- (c) Promotional event signs or banners of non-profit organizations such as museums, churches and public service organizations that use the signs or banners to inform the public of a public exhibition or public event, may be permitted by the Planning Commission, upon application, to be displayed up to two weeks before and during the public exhibition or event and must be removed within two (2) days after the end of the public exhibition or event.
- (d) A promotional event sign or banner, shall not exceed thirty-two (32) square feet or 20 feet in length; sign may be double-sided.
- (e) No more than two (2) signs or banners shall be displayed on any property or parcel at one time and shall not be placed within the twenty foot (20') clear vision corner zone as that term is used in section 16.31 of the Zoning Ordinance.
- (f) If building mounted, signs or banners shall be flat against the wall and shall not project above the roof line. If ground-mounted, the top of the sign or banner shall be no more than eight (8) feet above ground level.
- (g) Promotional event signs or banners shall be removed within forty-eight (48) hours of the conclusion of the event.

**(4) Wall-Mounted Signs.** Wall-Mounted signs shall be permitted in all districts, subject to the following restrictions:

- (a) Such signs shall be mounted such that no part of the sign is higher than the height of the facade of the building upon which it is mounted.
- (b) Dwelling-unit structures or home occupations shall be limited to one sign and three (3)- square feet.



- (c) The wall-mounted sign area for non-profit institutional uses located in residential

zones shall be limited to ten percent (10%) of the front facade and five percent (5%) of the side or rear facades.

- (d) The total area of all wall-mounted signs in commercial districts shall be restricted according to the following schedule:

**Table 4: AREA OF WALL MOUNTED SIGNS**

ZONING DISTRICT	% OF GROUND FLOOR WALL AREA ON FRONT FAÇADE	% OF GROUND FLOOR WALL AREA ON REAR FAÇADE	% OF GROUND FLOOR WALL AREA ON SIDE FACADES
C-1	15%	10%	5%
C-2	15%	10%	10%
LI	20%	10%	10%

- (e) One wall mounted sign shall be permitted per establishment per façade facing a public street, alley or parking area.
- (f) Changeable-message-area signs (where permitted) are permitted only on those facades that front directly on a public right-of-way or parking area. Changeable-message signs shall not exceed the maximum height of windows or doors on the first-floor facade.
- (g) In the C-1 District, buildings are permitted a maximum of one changeable-message-area sign per building entrance, not to exceed three square feet in size, to provide upper floor directories, restaurant menus, and the like. In the C-2 District, buildings are permitted a maximum of one changeable message area sign per building entrance, not to exceed six square feet in size.
- (h) Awning signs shall be counted toward the allowable maximum wall-mounted sign area.
- (5) **On-premise, Free-standing Signs.** On-premise, free-standing signs, where the building has a front-yard setback of at least ten (10) feet, shall be limited to one such sign per lot in the front- yard area of the lot.
- (7) Free-standing signs identifying a multi-family residential complex or subdivision in any district shall be restricted to a maximum area of thirty two (32)-square feet and a maximum height of six (6) feet.

shall not exceed 48 square feet in area nor 6 feet in height used for developemnt

The area and height of free-standing signs identifying a business or service are restricted according to the following schedule:

**Table 5: FREESTANDING SIGNS (with a front yard setback of 10' minimum)**

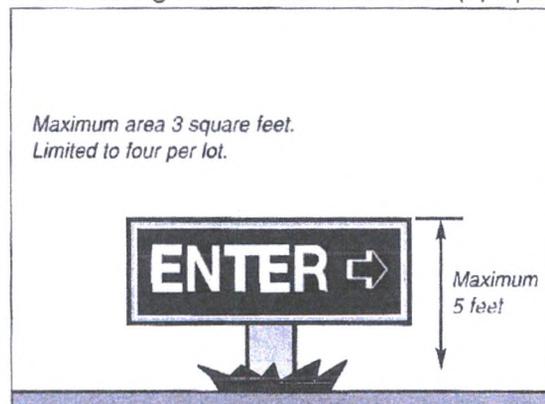
ZONING DISTRICT	MAX. HEIGHT IN FEET	MAX. SIGN AREA IN SQ. FT.
C-1	Eight (8)	Twenty four (24)
C-2	Twelve (12)	Thirty two (32)
LI	Fifteen (15)	Forty (40)

- (a) All free-standing signs may have up to 100% of the sign face in fixed-message area. Such free-standing signs shall have a maximum changeable-message area in accordance with the following schedule:

**Table 6: FREESTANDING SIGNS – CHANGEABLE MESSAGE**

ZONING DISTRICT	MAX. % SIGN FACE IN CHANGEABLE MESSAGE
C-1	Not permitted
C-2	50%
LI	50%

- (6) **Directional Signs.** Up to four (4) directional signs shall be permitted per lot, and each directional sign shall not exceed three (3) square feet in area and a maximum height of five (5) feet. , Such signs are to be displayed strictly for the direction, safety, or convenience of the public, including signs that identify restrooms, parking-area entrances or exits, visitor parking, restricted parking, clearance, freight entrances or the like. Any additional directional sign, not exceeding three (3) square feet in surface area, may be permitted subject to the approval of the



Planning Commission upon showing sufficient need.

- (7) **Sandwich boards.** Sandwich board signs shall be permitted in the C-1, and C-2 districts only,

on private or public property, subject to the following conditions:

- (a) One sandwich board sign is permitted per each ground-floor business. All such signs shall be subject to review and approval by the Zoning Administrator prior to placement, in accordance with these standards.
- (b) A business shall be permitted to display a sandwich board sign year round, during the business hours of the business displaying the sign.
- (c) Sandwich board signs shall not exceed six (6)-square feet in area and four (4) feet in height.
- (d) Sandwich board signs on private property shall not obstruct doorways.
- (e) Sandwich board signs on a public right-of-way/sidewalk shall be kept within twenty-four (24) inches of the building face and within six (6) feet of the building entrance for the business to which the sign pertains and shall not obstruct pedestrian traffic or impede maintenance and/or snow and ice removal. Where a business does not have direct frontage upon Center Street, the Planning Commission may approve the minimum exception necessary to the standards of subsection (7)(e) to allow for the reasonable promotion of a business within the C-1 District.
- (f) The appearance and construction of the sandwich board sign shall be compatible with the permanent sign on the building in which the business being advertised is located.

## Article IX.

### Signs Requiring Review

#### Sec. 9.1 Left Intentionally Blank

#### Sec. 9.2 Special-Condition Signs.

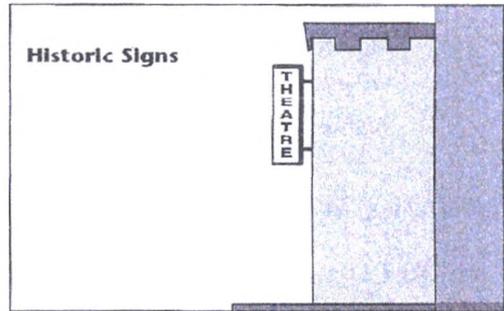
- (1) Signs may be permitted by special review or exception, as special-condition signs, upon approval by the Planning Commission, as provided below:
  - (a) Community-service signs with particular consideration given for shared individual signs identifying more than one service club or civic organization.
  - (b) Off-premise, directional signs of fewer than or equal to three (3)- square feet that pertain to a public-service institution (such as hospitals, schools, etc.).
  - (c) Directory signs that do not exceed the maximum restrictions by type of sign for wall-mounted or free-standing signs in the district where the property is located. Businesses identified on such signs shall each have an equal portion of the sign area. The Planning Commission may require that a directory sign identify more businesses

or services in order to minimize the total number of signs.

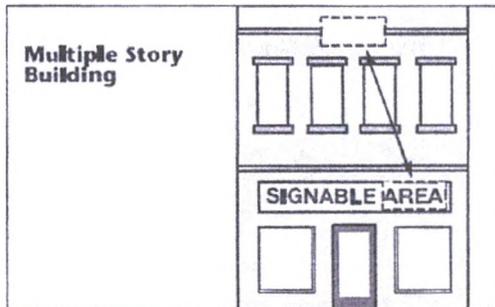
(d) Historic signs may be maintained, restored, or renovated subject to review of the sign and historic designation.

(e) Wall-mounted signs above the first floor of a multiple-story building.

(f) Exterior neon signs exceeding three (3)-square feet and interior window neon signs exceeding twenty-five percent (25%) of the window area shall be subject to review and approval.



(g) Unique conditions may permit greater sign height or area in individual cases where the Planning Commission determines that unique site conditions such as unusual site or building size, shape or topography; deep building setbacks; building facades obscured from the street, a non-conforming use; building facade limitations, etc. warrant such an exception.



(h) The size, location, and/or placement of all signs in subsections (a)-(g) shall also be reviewed in accordance with the standards set forth in section 11.1(5).

## (2) Procedures and Considerations for Special-Condition Signs.

(a) Special-condition signs shall be reviewed as to size, location, placement, etc. with consideration of the standards as set forth in section 11.1(5).

(b) The Planning Commission may impose conditions necessary to protect the public health, safety, and welfare of the community.

(c) In no case shall a sign have more than twenty-five percent (25%) greater sign area or twenty five percent (25%) greater sign height than allowed in the applicable sign provisions pertaining to a sign.

(d) Where deemed necessary, the Planning Commission may require a petitioner to install a mock-up of a proposed sign to assist with evaluation of the proposed height or area exception.

(e) Public notice of the time, date, and place of an appeal of a sign review decision made by the Planning Commission shall be provided in advance of the meeting during which the appeal will be considered.

**(3) Signs Regulated by the Highway Advertising Act of 1972.**

Notwithstanding the foregoing, it is not the intent of this ordinance to place additional restrictions on signs in an "adjacent area" next to an interstate highway, freeway, or primary highway as that term is defined by the Highway Advertising Act of 1972, MCL 253.301 et. seq.

**ARTICLE X. NONCONFORMING SIGNS**

**Sec. 10.1 Alteration or Re-Establishment of Non-Conforming Signs.**

Any existing sign on the effective date of the ordinance from which this chapter is derived or any amendment hereto, which does not at that time comply with all of the provisions hereof, including any amendment:

- (a) Shall not be changed to another type of sign which is not in compliance with this chapter.
- (b) Shall not have any changes made in the words or symbols used to the message displayed on the sign unless the sign is designed for periodic change of message.
- (c) Shall not be structurally altered so as to prolong the life of the sign or so to change the shape, size, type, or design of the sign.
- (d) Shall not have its face or faces changed unless the sign is brought into conformance with the requirements of this chapter, or unless the sign is an off-premises sign or billboard constructed to permit a change of face.
- (e) Shall not be re-established after the activity, business or usage to which it relates has been discontinued for a period of 90 days or longer.
- (f) Shall not be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the building official.
- (g) Shall not ever be placed, maintained or displayed by someone other than the person who owned the premises on the date of adoption of the ordinance from which this chapter is derived.
- (h) Shall not be placed, maintained, or displayed by any person on or after May 1, 2023.

**Sec. 10.2 Condemnation of Non-Conforming Signs.**

Upon approval of City Council, pursuant to applicable law, the City may acquire by condemnation an interest in privately-owned nonconforming signs for the purpose of

removal of such nonconforming signs to promote the public health, safety, and welfare of the City and its inhabitants. Just compensation, as defined by applicable law, shall be paid any owners for residual value of a nonconforming sign that is condemned pursuant to this section.

## ARTICLE XI.

### ADMINISTRATION AND ENFORCEMENT

#### Sec. 11.1 Generally

- (1) **Authority for Administration and Enforcement.** The Zoning Administrator and/or Department of Public Safety shall administer and enforce the provisions of this Ordinance.
- (2) **Procedures for Review and Permitting.** No sign identified in Articles VIII or IX shall be erected, altered, or relocated unless approved by the City, pursuant to the provisions of this Ordinance and the following:
  - (a) **Permits Required.** Signs identified in Articles VIII and IX shall require permits for installation.
  - (b) **Review.** All signs subject to review shall be reviewed by staff, except as otherwise required by this Ordinance. Where a petitioner is not satisfied with a decision of staff, it may be appealed to the full Planning Commission.
- (3) **Permits Not Required.** All other signs permitted in this Ordinance shall not require permits, but shall be regulated as provided in this Ordinance.
- (4) **Servicing and Repair.** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for periodic message changes for changeable-message signs, but not including changes to a sign requiring a new permanent face.
- (5) **Application for Sign Permit.**

A completed application for a sign permit shall contain or be accompanied by the following:

  - (a) **Sign Location Drawing.** Distance measured in feet and inches from the sign in relation to nearby buildings, sidewalks, street curbs, structures, other on-site signs, and property lines shall be shown.
  - (b) **Sign Elevation Drawing.**
    - (1) Height of the sign above the ground and support structure(s).

establishing the setback, location, and placement of signs:

- (a) Relationship of the sign to surrounding properties and rights-of-way:
  - (1) Compatibility with adjacent land uses and signs.
  - (2) Visibility of neighboring signs or buildings.
  - (3) Visibility and legibility of the sign for pedestrian and vehicular traffic.
  - (4) Lighting trespass impacts.
- (b) Relationship of the sign to features on the site of the sign installation:
  - (1) Suitability of the sign and its location relative to particular site characteristics such as yard areas, vegetation, topography, and the like.
  - (2) Compatibility of the sign with the size, location, and character of the principal building(s) on-site.
  - (3) Impact of the sign upon on-site vehicular and pedestrian circulation.
- (c) Impact of the sign upon the Douglas townscape:
  - (1) Impact of the sign upon views of prominent natural features such as Kalamazoo Lake and Lake Michigan, etc.
  - (2) Impact of the sign upon views of the Douglas skyline and its environs.
  - (3) Impact of the sign upon parks and public spaces.
  - (4) Impact of the sign upon historic buildings or properties.
- (d) Impacts of the sign upon public safety:
  - (1) Visibility of traffic-safety devices.
  - (2) Visibility of pedestrians and vehicles entering or exiting the site or on adjacent rights-of-way.
  - (3) Impacts of sign lighting upon vehicular traffic.
  - (4) The safety of the placement of the sign.
- (e) Consistent with the intent and purposes per Section 1.1 of this Ordinance. Impacts of the sign upon public safety:
  - (1) Visibility of traffic-safety devices.

- (2) Area and dimensions of sign surface.
  - (3) Lettering of the sign shall be graphically shown to scale as it will appear on the erected sign, shall be in the style of the finished sign, and shall be illustrated to approximate the size and weight of the lettering of the final constructed sign.
  - (4) Materials and colors to be used on the sign face and support structures shall be labeled.
  - (5) Method of illumination, if any, shall be shown. In the case of internally-illuminated signs, the drawing shall identify which part of the sign is translucent and which part is opaque.
- (c) **Load Calculations.** If deemed necessary by the Zoning Administrator structural calculations must certify that a sign is designed to withstand snow load, dead load, and wind load in accordance with applicable City, State, and Federal regulations.
  - (d) **Registered Seal.** At the discretion of the Zoning Administrator, for public-safety concerns, the application shall bear the certificate or seal of a registered architect or engineer as a condition precedent to the issuance of the permit.
  - (e) **Certificate of Insurance.** The Zoning Administrator may require an applicant to obtain a certificate of insurance for installation of free-standing or overhanging signs.
  - (f) **Location Staking.** With two stakes erected to designate the vertical height and located at the horizontal limits of the sign structure, the proposed location of free-standing signs shall be identified by an applicant prior to review by the City.
  - (g) **Graphic Illustration.** The Zoning Administrator or Planning Commission may require photographs, markings on buildings, mockups, spec sheets, catalogs, or other necessary illustrations in order to evaluate a proposed sign and its impacts.
  - (h) **Other Information.** The City may require additional information to show full compliance with this and all other applicable laws.
  - (i) **Permit Fee.** A permit application fee must be paid in connection with all applications for sign permits, in accordance with the City's schedule of fees.
  - (j) **Expiration of Permit.** All permits issued for the erection of a sign shall expire, unless authorized work commenced within six (6) months after issuance of the permit.
- (6) **Standards for Sign Review.**

In reviewing an application for a sign permit, the Zoning Administrator and the Planning Commission may consider the following standards as a basis for approving a sign permit and

- (2) Visibility of pedestrians and vehicles entering or exiting the site or on adjacent rights-of-way.
  - (3) Impacts of sign lighting upon vehicular traffic.
  - (4) The safety of the placement of the sign.
- (7) **Interpretation and Conflict.** The standards and provisions of this Ordinance shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Ordinance imposes a higher standard than required by other regulations, ordinances or rules, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern. When the provision of any other statute imposes higher standards, the provisions of such statutes shall govern. Where it is alleged by a petitioner that there is an error in interpretation of this Ordinance by the Zoning Administrator, the Zoning Board of Appeals shall review such an appeal.
- (8) **Municipal Civil Infractions.**
  - (a) Any person, firm or corporation violating any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Douglas Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions, for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Douglas Municipal Civil Infraction Ordinance, and other applicable laws).
  - (b) Repeat offenses under this Ordinance shall be subject to increased fines, as provided by the City of Douglas Municipal Civil Infraction Ordinance, as amended from time to time.
  - (c) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.
  - (d) The Zoning Administrator or the City Manager's designee (as defined by the Municipal Civil Infraction Ordinance, as amended) are hereby designated as the Authorized City Officials to issue municipal civil infraction citations for violations of this Ordinance.
  - (e) A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the City may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.

- (9) **Public Nuisance and Health Hazard.** Any sign constituting an immediate hazard to health and safety shall be deemed a nuisance and may be removed by the City at the sign owner's expense.
- (10) **Impoundment of Illegal Temporary Signs.** Illegal temporary signs that are on display at any time more than twenty-four (24) hours after notice to the property owner may be impounded by the City.

#### **Sec. 11.2 Appeals to Sign Board of Appeals**

**(1) Sign Board of Appeals.**

The Douglas Zoning Board of Appeals shall act as the Douglas Sign Board of Appeals to hear appeals under the sign ordinance.

**(2) Right of Appeal.**

Any person aggrieved by notice or order of the Zoning Administrator and/or the Planning Commission issued in connection with any alleged violation of the provisions of this sign ordinance may file with the sign board of appeals a petition setting forth their reasons for contesting the notice or order.

**(3) Petition Filing.**

Such petition shall be filed within ten days after the notice or order is served on the petitioner. The petition shall be accompanied by a fee which has been set by resolution of city council.

**(4) Time and place of hearing; notice of hearing.**

Within 45 days after a valid petition, the sign board of appeals shall conduct a hearing. The zoning administrator shall set the time and place of said hearing, and at least ten days prior to the hearing date serve the petitioner and the sign board of appeals with written notice thereof.

**(5) Action by sign board of appeals.**

(a) The sign board of appeals shall have the power to modify or reverse, wholly or partly, the notice or order, and may grant an extension of time for the performance of any act required of not more than three additional months, where the sign board of appeals finds that there is practical difficulty or undue hardship connected with the performance of requirements of the sign ordinance, and that such extension is in harmony with the general purpose of this ordinance to secure the public health, safety and welfare.

(b) The sign board of appeals shall return a decision upon each case within 60 days after

a request or appeal has been filed, unless a further time is agreed upon with the parties concerned. Notwithstanding the foregoing sentence, the board may, in appropriate cases, be permitted an extension of time after hearing the case, in which to make its decision, provided such an extension shall not exceed 30 days. Any decision of the board shall not become final until the expiration of five days from the date of entry of such order unless the board shall find that the immediate effect of the order is necessary for the preservation of the property or personal rights and shall so certify on the record.

- c. The concurring vote of three members of the board of appeals shall be necessary to reverse wholly or partly or modify any order, requirement, decision or determination of the Zoning Administrator and/or the planning commission or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation of this ordinance.
- d. After a variance has been denied in whole or in part by the board, then such application shall not be resubmitted for a period of one year from the date of the last denial. However, a denied variance may be reconsidered by the board when, in the opinion of the zoning administrator, or the board, newly discovered evidence or changed conditions warrant such reconsideration.

**(6). Scope of appeal hearing.**

At the appeal hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn, or why the period of time permitted for compliance should be extended.

**(7). Stay.**

An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator and/or the planning commission certifies to the sign board of appeals, after the notice of appeal shall have been filed, that by reason of the facts stated in the certificate, an emergency exists, in which case the proceedings shall not be stayed, except by circuit court order.

**(8) Variances.**

- (a) A variance may be allowed by the sign board of appeals only in cases involving practical difficulties or unnecessary hardships when the evidence in the official record of the appeal supports all the following affirmative findings:
  - (1) That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city.

- (2) That the alleged hardships and practical difficulties, or both which will result from a failure to grant a variance, include substantially more than mere inconvenience, or mere inability to attain a higher financial return.
- (3) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose or general intent and purpose of this chapter.

The above findings of fact shall be made by the sign board of appeals, which is empowered to grant a variance without an affirmative finding of fact in each of the categories above. Every finding of fact shall be supported in the records of the proceedings of the board.

- (b) Nothing contained herein shall be construed to empower the sign board of appeals to substantially change the terms of this ordinance, or to significantly add to the types of signs permitted on any premises.

**(9) Appeal Procedures.**

- (a) The sign board of appeals shall give due notice of all hearings to all owners of record of real property within 300 feet of the premises in question; such notice shall be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll.
- (b) All persons pursuing an appeal shall be required to appear in person or to be represented by a duly authorized agent.
- (c) The sign board of appeals shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
  - (1) The relevant administrative records and administrative orders issued herein relating to the appeal.
  - (2) A notice of appeal.
  - (3) Such documents exhibits, photographs, or written reports as may be submitted to the board for its consideration.
- (d) The requisite written findings of fact, the conditions attached, the decisions and orders by the sign board of appeals in disposition of the appeal shall be signed by the secretary of the board.

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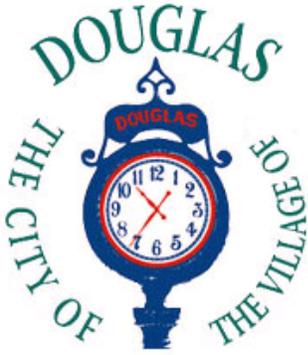
**ARTICLE XII. SEVERANCE CLAUSE Sec. 12.1**

The sections and subsections of this Ordinance shall be deemed to be severable and should any section, subsection, paragraph, or provision hereof be declared by a court of competent jurisdiction to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**ARTICLE XIII. VESTED RIGHT Sec. 13.1**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular sign<sup>1</sup> or signs, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protections of public health, safety and welfare.

**DRAFT December 2019**



**To: Douglas Planning Commission**

**From: Nicholas Wikar  
Planning and Zoning Administrator**

**Date: September 3, 2021**

**Subject: Discussion of Amendments – Article 20, City of the Village of Douglas Zoning Ordinance; to Repeal and Replace Section 16.20 Environmental Protection Standards; Section 16.21 Shorelines; Section 16.22 Roads, Water, Sewage and Stormwater Standards; Article 21 Landscaping, Buffering and Fencing; and Chapter 98 Trees and Chapter 151 Waterfront Construction, of the City Code of Ordinances (Continued)**

First considered July 14, 2021, the Planning Commission shall continue consideration of amendments through discussion, to set expectations of the Planning and Zoning Administrator to perform necessary maintenance that shall clarify desired Performance Standards, and to correct redundancy and conflict amongst Zoning Ordinance and the Code of Ordinances of the City.

The following documents have been provided to the Planning Commission for their consideration. The summary below included select items bolded to correct error from the previously serviced copy and/or to reflect additional related sections, now named or provided:

1. Section **16.20** Environmental Protection Standards, City of the Village of Douglas Zoning Ordinance
2. Section **16.21** Shorelines, City of the Village of Douglas Zoning Ordinance
3. **Section 16.22 Roads, Water, Sewage and Stormwater Standards, City of the Village of Douglas Zoning Ordinance**
4. **Article 21: Landscaping, Buffering and Fencing, City of the Village of Douglas Zoning Ordinance**
5. Chapter 98 Trees, City of the Village of Douglas Code of Ordinances
6. Ordinance 05-2011 Tree Ordinance, City of the Village of Douglas
7. Chapter 151 Waterfront Construction, City of the Village of Douglas Code of Ordinances
8. Ordinance No. 101 Waterfront Construction Ordinance, Village of Douglas
9. Ordinance No. 101-A Amendment of Waterfront Construction Ordinance, Village of Douglas
10. Ordinance 101-B Amendment of Waterfront Construction Ordinance, Village of Douglas

The Commissioners are encouraged to engage the Planning and Zoning Administrator in the merit of this action and the handling of these sections/ordinances in preparation for Public Hearing and amendment of the Zoning Ordinance.

*There is no financial burden, beyond the eventual cost of standard Public Notice publication and delivery, associated with this recommended action of the Planning Commission.*

**It is recommended the Douglas Planning Commission consider amendment to Article 20 of the Zoning Ordinance; to clarify, correct, or replace in-part or in-whole Section 16.20 Environmental Protection Standards; Section 16.21 Shorelines; Section 16.22 Roads, Water Sewage and Stormwater Standards; Article 21 Landscaping, Buffering and Fencing; and to recommend City Council repeal Chapter 98 Trees and Chapter 151 Waterfront Construction within the Code of Ordinances of the City of the Village of Douglas.**

It shall be unlawful to have, possess, or maintain junk, or inoperable or abandoned motor vehicles on any property in the City, see Ordinance #114.

### **Section 16.20 Environmental Protection Standards**

1) **DRAINAGE PLAN REQUIRED:** All new construction, including single family residential, multi-family residential and any use requiring site plan review, for example, special uses, planned unit development, and condominium subdivisions shall prepare and submit for review a drainage plan that conforms with the provisions of this Ordinance and the regulations and standards of the following:

- a) Published surface water drainage standards of the Allegan County Drain Commission.
- b) Applicable fire safety and emergency vehicle access requirements of the State Construction Code, State Fire Marshall and local Fire Code.
- c) Allegan County Soil Erosion and Sedimentation Ordinance.
- d) Requirements of the Michigan Department of Public Health and the Allegan County Health Department.
- e) Allegan County Building Code and/or the State Construction Codes.
- f) Michigan Department of Natural Resources requirements for air or water quality protection, wetlands, stream crossings, fills in or near water bodies or in floodplains, and for waste disposal.
- g) All local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.

#### 2) Sensitive Lands:

- a) Where a portion of a parcel is characterized by wetlands, hydric soils, floodplains, sand dunes, or slopes greater than 12%, new development on the parcel shall occur on those buildable portions of the parcel without such sensitive resources.
- b) The Zoning Administrator shall not issue a Zoning Permit for any land use which requires any other agency, county, state, or federal permit(s), until such permit(s) has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.
- c) The City may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

3) Clearing of a Site: It shall be unlawful for any person, individual, partnership, corporation, association or other legal entity to engage in land clearing of any site, parcel, or lot within the City without first receiving an approved Zoning Permit. To do so constitutes a violation of this Zoning Ordinance. Stripping and removal of topsoil from the site is prohibited. Land clearing means: The removal of vegetation from any

site, parcel or lot in an amount greater than ten thousand (10,000) square feet in size or the removal of more than 20 trees more than six (6) inches in diameter at breast height within fifty (50) feet of a public street or approved private road, except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting such use. Mowing, trimming or pruning of vegetation to maintain it in healthy, viable condition is not considered clearing.

4) Grading and Filling: In order to protect adjacent properties, public roads, public water courses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance.

- a) Flow Restrictions: The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flow away from the building or structure and is managed in a manner which avoids: increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public water course or the creation of standing water over a private sewage disposal drainage field.
- b) Elevation Restrictions: Filling with earth or other materials of a parcel of land to an elevation above the established grade of adjacent developed land is prohibited without the expressed written approval of the City Engineer and Zoning Administrator.
- c) Natural watercourses which provide drainage from or through a proposed site shall be maintained in a natural state, or as an open grass swale, unless design flow clearly warrants the enlargement of the watercourse or deepening of the drain. The installation of underground pipes or tile drains is discouraged except when necessary for the purpose of public safety.
- d) See also the requirements of Section 16.22 (3)

5) Grading Plan Requirements:

- a) The grading plan shall be drawn to a legible conventional Engineer scale (1" = 20') using the site plan as a base map.
- b) The Grading plan shall include, a minimum, the following features:
  1. Provide a lot drainage plan with the Finish Floor Elevation (FFE) of the building, along with flow arrows and spot elevations. In general, drainage should be routed along the shortest practicable flow path to the street or drainage easement. (Existing flow conditions will be considered for site specific applications.)
  2. Identify existing drainage features on the lot, adjacent lots, and at the street; including inlets, storm drain pipes, culverts, swales, springs, water impoundments, etc. and existing structures on adjacent lots (within 20 feet of the property line).
  3. Label and identify height of retaining walls, if applicable.
  4. Identify the 100-year floodplain and/or floodway and base flood elevations, if applicable.

- c) The Grading Plan must establish positive drainage and not re-direct existing runoff or new runoff to an adjacent property unless an existing drainage easement or property owner agreement is provided.
- d) No standing water shall remain, unless planned low areas such as bio-retention swales, rain gardens, etc, are planned for and properly designed, including underdrains as necessary.

### **Section 16.21 Shorelines**

The following regulations apply to every new waterfront lot created after the effective date of this Ordinance and on every existing lot on which a dwelling is being erected for the first time along the shorelines of the Kalamazoo River or Lake Michigan. These requirements are not subject to regulatory flexibility associated with a PUD project.

1) Designation of Shoreline Protection Strip: A shoreline protection strip shall be established with the following characteristics:

- a) A natural vegetation strip from the ordinary high water mark to a distance of thirty (30) feet inland shall be established and maintained except a seawall may be constructed when it is determined by the Zoning Administrator that a seawall is the established practice of the majority of lots in the vicinity. The seawall determination can only be made at the time when a dwelling is proposed for construction and must conform with all applicable federal, state and local laws.
- b) Natural shrubbery, trees, or other vegetation shall be preserved as far as practicable, and where removed shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty. A mowed lawn is not a desirable vegetation strip adjacent to the shoreline. Native plants, shrubbery and trees are encouraged when new vegetation is planted.
- c) Existing soil and organic matter shall not be altered or disturbed within the natural vegetation strip.
- d) Within the natural vegetation strip no structures shall be permitted, with the exception of docks, boat ramps, pump houses, previous walkways, and elevated walkways which provide the property owner with reasonable access to the water. Dock lighting is discouraged. All dock lighting shall be shielded and directed so as to prevent light and glare on adjoining properties or into the night sky.
- e) No unsightly, offensive or potentially polluting material including, but not limited to lawn clippings, leaves, garbage, trash, refuse, junk cars, junk appliances or toxic materials shall be dumped or stored within the natural vegetation strip .

- f) These provisions shall not apply to the removal of dead, diseased or dying trees at the discretion of the landowner, or to silvicultural thinning upon recommendation of a professional forester.

2) Setbacks:

- a) All principal uses of land adjacent to the Kalamazoo River or Lake Michigan shall be set back according to the requirements in b) below, except for the following uses: pump houses, recreational docks, boat houses, fishing piers, erosion control devices and associated facilities when located and designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of existing uses and water resources.
- b) Setbacks from the ordinary high water mark of any natural or artificially created lake shall be:
  - 1. Fifty feet for any principal structure.
  - 2. One hundred feet for any well or septic system.
  - 3. Fifty feet for every parking lot or parking area.
  - 4. Fifty feet for any roads, driveways, or recreational trails unless no alternatives exist, then they may be placed closer, but must be designed to minimize adverse impacts.

3) All waterfront development shall comply with the City Waterfront Construction Ordinance #101.

**Section 16.22 Roads, Water, Sewage and Stormwater Standards**

1) Roadway Network: All site plans and land uses requiring a Zoning Permit shall comply with driveway and traffic safety standards of the Michigan Department of Transportation and the Allegan County Road Commission. Large scale development will be expected to provide de-acceleration lanes, right turn lanes, bypass lanes, and other access management improvements. (See Article 18 and Section 16.31).

2) Potable Water and Sewage Disposal:

- a) Any structure for human occupancy after the effective date of this Ordinance shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes. All other buildings shall provide potable water and waste water disposal per the requirements of the building regulations of the City of the Village of Douglas.
- b) All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Allegan County Public Health Department as well as those of other applicable local, county, state, or federal agencies. A sanitary sewer system serving two (2) or more dwellings shall meet all

federal, state, county and City requirements for a public sanitary sewer system and shall be operated and maintained as a public system.

3) Storm water Management:

- a) All lots shall retain storm water runoff on-site, or detain it so as to allow discharge without any impact on adjacent lands, streams or water bodies, above the existing predevelopment runoff impact.
- b) Development of all lots shall conform with the soil erosion and sedimentation requirements of the County and any special requirements of the Drain Commission.
- c) The Zoning Administrator shall have the authority to require the owner to develop and submit, as part of the zoning permit application, an approved plan for detaining storm water where hydric soils, wetlands, steep slopes or similar conditions are present. In this event, the Zoning Administrator may require that the plan be prepared by a registered civil engineer or other suitable professional and may withhold the zoning permit until such evidence is submitted.

**Section 16.23 Conditional Approvals**

1) Conditions on Discretionary Decisions. The Planning Commission, Zoning Board of Appeals, and City Council may attach conditions to the approval of a site plan, special use, planned unit development, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

- a) Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- b) Protect the natural environment and conserve natural resources and energy.
- c) Ensure compatibility with adjacent uses of land.
- d) Promote the use of land in a socially and economically desirable manner.

2) Requirements for Valid Conditions; Conditions imposed shall meet all of the following requirements:

- a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land

**ARTICLE 21:  
LANDSCAPING, BUFFERING AND FENCING**

**Section 21.01 Landscaping, Fencing, Walls, and Screening**

The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, stormwater and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance and character of the community and its residential neighborhood areas, preventing soil erosion and soil depletion; and promoting best practices in stormwater management.

In addition, it is the goal of this section to create the environment for retaining as many existing, desirable and mature trees as possible during the development and construction processes.

Application of Standards: These requirements shall apply to all uses for which site plan review is required under Article 24, Site Plan Requirements and any other use so specified in this Ordinance. No site plan shall be approved unless it illustrates landscaping, greenbelt buffer zone(s), and/or screening consistent with the requirements of this section.

A Fence Permit is required to erect a fence on property principally used for single or two-family residential purposes. However, all fences erected or replaced after the effective date of this Ordinance shall conform with the requirements of this Ordinance and specifically Subsection 12 of this Section.

2) Landscape Plan Required: A separate detailed landscape plan, may upon determination of the Zoning Administrator, be required to be submitted as part of a site plan review (see Article 24) or by other provisions of this Ordinance. Whether separate, or part of other site plan drawings, the landscape plan shall include, but not be limited to, the following items:

- a) Location, spacing, size, and root type [bare root (BIR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
- b) A scale of at least: 1" = 20'.
- c) Existing and proposed contours at intervals not to exceed two (2) feet and, where requested by the Zoning Administrator, one-hundred (150) feet beyond the site.
- d) Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
- e) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

- f) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- g) Identification of existing trees and vegetative cover to be preserved as well as that to be removed.
- h) Identification of grass and other ground cover and method of planting.
- i) Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

3) Screening Between Land Uses:

- a) Upon any improvement for which a site plan is required, or whenever a nonresidential use or multiple family dwelling abuts a residentially zoned or used property, the Planning Commission may require that screening be constructed at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property. Either a buffer zone or solid wall may be used to provide the screening as provided below, or when the distance between structures or adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of Subsection 10 may be required at the discretion of the Planning Commission. A buffer zone, at least ten (10) feet in width, may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings shall meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of the three (3)-year period, in the event that the landscaping has not totally blocked the view of areas required to be screened. The Planning Commission may waive some or all of these provisions for a planned unit development where the waiving of said provisions will strengthen the planned unit development concept.
- b) Where there is a need to provide a greater noise or dust barrier or to screen more intense development at the discretion of the Planning Commission, a solid wall shall be required. Such wall shall be five (5) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed on both sides with face brick, poured-in-place simulated face brick, precast brick panels having simulated face brick, or stone.

4) Parking Lot Landscaping: Separate landscaped areas shall be required either within or at the perimeter of parking lots.

- a) There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space of fifty (50) square feet.

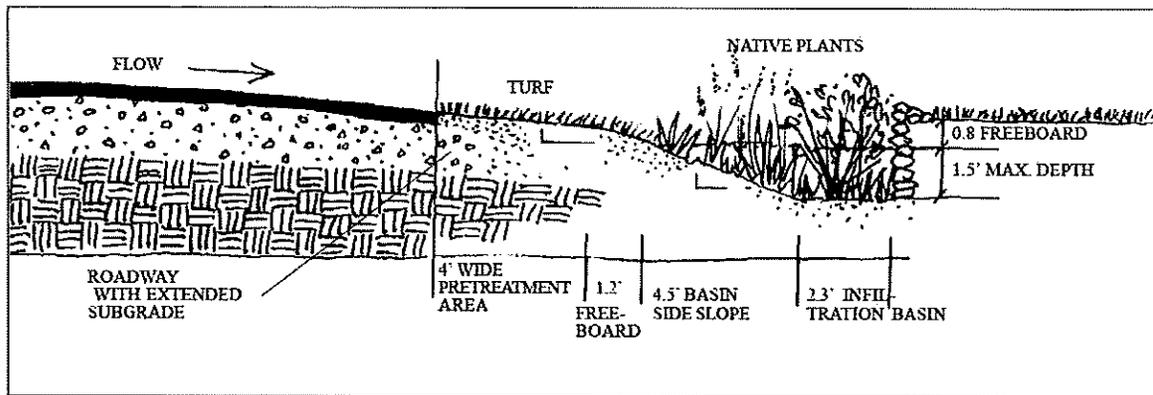
- b) A majority (51% or more) of landscaped areas shall consist of deep-rooted perennial plantings as opposed to sod or shallow rooted turf grass.
- c) Landscaping shall be integrated with safe pedestrian movement from parking areas to all buildings on site as well as to the public rights of way adjacent to the site. This shall consist of a clearly marked pedestrian aisleway which provides both visual and textural differentiation from the vehicle parking surface and may include stamped and stained concrete, brick pavers or similar materials in compliance with the Americans with Disabilities Act.

5) Site Landscaping:

- a) Except in the case of a planned unit development and in addition to any buffer zone and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
- b) Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.
- c) Landscaping along public rights of way shall include a minimum of one (1) tree at least fifteen feet in height or a minimum caliper of three (3) inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage abutting said right of way. Tree species shall be selected from the City of Douglas recommended species list. The remainder of the landscaping within the right of way shall comply with the recommendation of the Blue Star Corridor plan or other streetscape plans on file at the time of application and may include grass, ground cover, shrubs, and/or other natural, living, landscape material.

7) Stormwater Management: All parking lots shall include on site stormwater management which incorporates one or more of the following:

- a) Rainwater gardens shall be a minimum of 10 feet from any building foundation and shall be constructed to a depth of 6 to 18 inches. Rainwater gardens shall be designed to include a minimum four (4) foot buffer of turfgrass between perennial plantings and any impervious surface and shall be graded to a slope of no more than ten (10) percent. Plants shall be selected to reduce maintenance and which are tolerant of snow storage and winter salt and sand. All proposed rainwater gardens shall be reviewed and approved by the City Engineer prior to approval and inspected by the City Engineer following construction. Failure to construct or maintain any component of the stormwater management plan shall be considered a violation of this ordinance and enforced per the standards of a civil infraction within the Douglas code of ordinances.



Profile of a Typical Rainwater Garden

- b) Infiltration Basins: a stormwater runoff impoundment designed to capture the entire volume of a 5 year storm event, hold this volume and infiltrate it into the ground over a period of days. An infiltration basin shall not be designed to retain a permanent pool of water. The bottom of an infiltration basin shall be vegetated with deep-rooted native plant species as approved by the Planning Commission.
- c) Alternative stormwater management designs may be approved where recommended by the City Engineer and when determined to meet the intent of this ordinance.

7) Minimum Size and Spacing Requirements: Where landscaping is required, plants shall be of a minimum size and spacing where an eighty percent (80%) screen can be reasonably expected to be achieved in three years under normal growing conditions.

8) Landscape Elements: The following minimum standards shall apply:

- a) Quality. Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to the climate, conform to the current minimum standards of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
- b) Composition. A mixture of plant material, such as evergreens, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
- c) Berms. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point and extending the length of the berm. Berm slopes shall

be protected with sod, seed, shrubs or other form of natural ground cover.

d) Existing Trees.

1. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the City, protective techniques such as fencing or barriers, shall be installed at the drip line around the perimeter of the plant material during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the City.
2. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the City, the Contractor shall replace them with trees which meet Ordinance requirements.
3. Trees labeled "To be removed" on a site plan or landscape plan prepared under Section 21.01(2) shall be replaced, with a similar species, or by a similar tree from among those listed in subsection e which follows, and in minimum size as required in the size elements of Section 21.01(7).

e) Installation, Maintenance and Completion. All landscaping required by this Ordinance shall be planted prior to obtaining a certificate of occupancy or a performance guarantee will be secured pursuant to Section 23.06 for the amount of the cost of landscaping to be released only after the landscaping is completed.

f) Recommended Plant List is available in the office of the City Clerk and Zoning Administrator.

9) Installation and Maintenance:

- a) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
- b) The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

10) Screening: Unless otherwise specified or determined by the Planning Commission or Zoning Board of Appeals, screening is to be six (6) feet in height.

Gateposts and other superstructures over site entrances and exits may be up to fourteen (14) feet in height. Fencing and screening materials of a height greater than three (3) feet shall not be located within a required front setback or side setback adjacent to a street. The finish side of every fence shall face away from the property on which it is located.

- a) Mechanical Equipment (this subsection does not apply to single-family residential uses, or to any use in an industrial zone except if it abuts a residential area). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
  - 1. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
  - 2. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
- b) Outdoor Storage in Commercial and Industrial districts: To be screened on all sides by a solid wall or fencing.
- c) Public Utility Substations in any district: To be screened on all sides by a solid wall or fencing, and landscaping.
- d) Side and Rear Lot Lines: The side and rear lot lines of all nonresidential uses are to be screened as follows:
  - 1. Adjacent to a Residential Use or Zone: See requirements of subsection 3 above.
  - 2. Industrial and Commercial Zones: A solid wall or fencing is to be located on the side and rear lot lines of any site within an Industrial or Commercial zone that abuts a non-industrial or noncommercial zoning district or land use.
- e) Loading Areas: Shall be fenced and screened whenever abutting a different zone or residential property pursuant to the provisions of Subsection 3 above.
- f) All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height, with six (6) feet high view-obstructing doors. A dumpster cannot be stored in a building unless approved by the Fire Chief.

11) Exceptions to Screening Requirements:

- a) Buildings Abutting Lot Lines: Required screening or fencing may be omitted along any lot line where a building wall exists immediately, or at the minimum five (5) foot setback abutting the lot line.
- b) Location Adjustment: Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped, or in naturally vegetated areas, retained in their natural vegetative state at the discretion of the Planning Commission.
- c) Existing Screening: Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.
- d) Planning Commission Modification: Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
- e) Zoning Board of Appeals: The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

12) Fence Standards.

- a) General Standards:
  - 1. A zoning permit shall be required for all fences.
  - 2. The applicant shall provide a survey of the property to determine the proper location for the fence.
  - 3. No fence shall be permitted in the street right-of-way or easement.
- b) In zones other than for single or two family dwellings.
  - 1. Solid board fences with wood posts not less than four inches by four inches (4" x 4") and solid board cover not less than one (1) inch thick (normal size measurements). Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finished side of the

wood shall face abutting properties. Stockade type fencing is not permitted.

2. Wrought iron, open mesh, chain link or slatted fencing, provided that a minimum ratio of one part open space to six-parts of opaque fencing material (83% opaque) used to infill the wall of a fence is maintained.
  3. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. The outer face of such wall (the face away from the use which is to be screened) to be of clay, brick, stone, embossed or pierced concrete block, or other decorative masonry material.
- b) In residential zones and where single or two family dwellings are the principal permitted uses:
1. Same as a) above except that stockade fencing is permitted, and, the finished, or outer face of the fence may face the property being fenced.
  2. Picket and similar generally recognized residential type fencing is also allowed.
  3. No fence may exceed six (6) feet above the lot line, except that where limited special circumstances, such as fencing around a raised deck or pool, or where unusual grade considerations may apply, then the Zoning Administrator is permitted to exercise discretion in determining the bottom grade of the fence. Practically speaking, fences may be constructed on lot lines.
  4. In residential zones or uses, no fence shall exceed three (3) feet of height above the average grade at the center of the lot, within fifteen 15 (feet) of the front lot line, or any lot line adjoining a street. Except that, a fence may be constructed if visual barriers are not created and the fence is at least 88% open (one (1) part structure to eleven (11) parts open). No plant material or shrubbery that exceeds three (3) feet in height shall be allowed to be part of a fence constructed under this exception.
- c) Swimming Pools: See Section 16.16.

13) Barrier Fences: Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall are prohibited unless needed to protect the public safety and approved by the Planning Commission.

14) Fire Hazard: No fence shall be approved that constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity. In addition, no fence shall be approved that will interfere with access by the Fire Department in case of

fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.

## CHAPTER 98: TREES

### Section

- 98.01 Purpose
- 98.02 Definitions
- 98.03 Tree Board
- 98.04 Trees in the public right-of-way and public property
- 98.05 Protection of trees; permit required for tree removal in public rights-of-way
- 98.06 Tree protection during construction or development
- 98.07 Tree removal on a vacant lot or parcel
- 98.08 Limited lighting of trees on public rights-of-way
- 98.09 Tree replacement program
  
- 98.99 Penalty

### § 98.01 PURPOSE.

This chapter is intended to regulate the removal of trees from public street rights-of-way in the city, and to preserve, protect and enhance valuable resources entrusted to its citizens. To protect the health, safety and welfare of its citizens, to establish standards limiting the removal of, and insuring the replacement of trees sufficient to safeguard the ecological and esthetic environment necessary for the city. To provide protective regulations against hazardous trees and diseased trees or shrubs; to control activities relative to trees and plantings within the public street rights-of-way of the city; to establish regulations and procedures for the removal of trees located on public street rights-of-way.

(Ord. 05-2011, passed 9-6-2011)

### § 98.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BUILDING ENVELOPE.*** The ground area of a lot or parcel of land enclosed or to be enclosed by the exterior walls or perimeter (foot print) of principal and accessory buildings, and any associated improvements including, but not limited to; pools, decks, patios, walks, tennis courts, driveways and utility services.

**DESTROY.** To remove (cut down) a protected tree or to perpetrate any intentional act of negligence which will cause a protected tree to decline or die within a period of two years. This shall include but not be limited to: damage inflicted upon the root system of a protected tree by the application of toxic substances, damage by the operation of equipment and vehicles, damage caused by excavation or fill within the drip line of a protected tree, or damage caused by alteration of natural physical conditions.

**DIAMETER BREAST HEIGHT (DBH).** A tree's diameter in inches measured four and one-half feet above the ground.

**DRIP LINE.** An imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

**PROTECTED TREE.** A tree that is six inches DBH or greater in size.

**TREE.** Any self supporting woody plant growing upon the earth which usually provides one main trunk and produces a distinct head with many branches.

**TREE PROTECTION ZONE (TPZ).** The area between the line extending ten feet beyond the building envelope and the property line.  
(Ord. 05-2011, passed 9-6-2011)

### § 98.03 TREE BOARD.

(A) *Purpose.* A Tree Board is hereby established for the purpose of regulating the planting, protection, preservation, and removal of trees within the public rights-of-way, and for the purpose of considering appeals from denials of tree removal permit applications and to undertake other responsibilities specified in this chapter,

(B) *Membership.* The Tree Board shall consist of the Mayor of the city or the Mayor's designee; one member of the Douglas Advisory Council (DAC) and one member of the community both to be appointed by the Mayor and confirmed by the City Council. The members of the Tree Board may be assisted in their official responsibilities by staff members of the city, including the City Manager, the Superintendent of the Public Works Department and a licensed arborist appointed by the City Council or other appropriate city staff members.

(C) *Meetings.* Meetings shall be held at least once quarterly at the discretion of the Committee Chair, with the first meeting held the first full week of January. Meetings shall be subject to the Open Meetings Act.

(D) *Duties.* To review the policies and suggest changes to City Council or to Planning Commission, to develop a list of acceptable trees, and to develop rules and guidelines for administrative approvals.  
(Ord. 05-2011, passed 9-6-2011)

**§ 98.04 TREES IN THE PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY.**

(A) *Treatment of protected trees.* No tree upon any public right-of-way or public property shall be destroyed, pruned, girdled, broken, bent, wounded or have notices or signs tacked upon without the consent of the City Manager under the direction of the Tree Board.

(B) *Planting of trees or shrubs.* No person shall climb or walk upon the branches of a protected tree in any public right-of-way or public property while wearing spurs or other climbing attire unless such person is in the permitted act of removing or maintaining a tree. No trees or shrubs shall be planted upon any public right-of-way or public property without the consent of the City Manager. No trees shall be planted at public expense upon private property unless a public easement has been granted in a form acceptable to the city.

(Ord. 05-2011, passed 9-6-2011) Penalty, see § 98.99

**§ 98.05 PROTECTION OF TREES; PERMIT REQUIRED FOR TREE REMOVAL IN PUBLIC RIGHTS-OF-WAY.**

(A) *Purpose.* The tree canopy contributes to the visual character of the city and trees are important natural resources and assets of the city. Therefore, every effort must be made to ensure that only the minimum numbers of protected trees are removed prior to construction of new structures, or alterations/additions to existing structures and in other approved circumstances. It is the intent of this chapter that a permit should not be granted for the removal of a protected tree where a reasonable alternative design solution exists that is consistent with the use of the property.

(B) *Permit required.* A Tree removal permit shall be required for and prior to the removal, relocation, or destruction of any tree located within any public street right-of-way; provided, however, that no such permit shall be required in order for the city to remove or otherwise affect any tree located within a public street right-of-way, and the city retains its authority with respect to public street rights-of-way, irrespective of the provisions of this chapter.

(C) *Application for permit.* A person seeking a tree removal permit for the removal, relocation or destruction of a tree within a public street right-of-way, shall complete a tree removal permit application and submit the application to the Zoning Administrator. The applicant shall also prepare and submit to the Administrator, a site plan including at least the following information:

(1) The tree or trees that are proposed to be removed, relocated or destroyed. Such trees shall also be identified by written description or by a photograph. The location and general description of the other protected trees within the adjacent street right-of-way that are proposed to remain undisturbed shall also be stated; and

(2) A description of any grade changes or other changes within the street right-of-way that may occur as a result of the proposed tree removal, if such changes or results will have an adverse effect on any trees remaining in that part of the street right-of-way adjacent to the applicant's property.

(D) *Approval of permit.* The Zoning Administrator shall grant and approve a tree removal permit upon finding that all of the following requirements are satisfied:

(1) The applicant has submitted a site plan or other information satisfactorily demonstrating that the number of trees and the particular trees proposed to be removed are the minimum number needed to be removed in order to achieve the results sought by the applicant;

(2) The applicant has satisfactorily demonstrated that harm or other negative impacts to the remaining trees on that part of the street right-of-way adjacent to the applicant's property will be minimized or avoided;

(3) There are no desirable, prudent or reasonably feasible alternatives whereby the desired results could be achieved, other than the removal, relocation or destruction of the trees indicated by the applicant;

(4) The tree or trees proposed for removal, relocation or destruction need to be removed for at least one of the following reasons:

(a) They are a safety hazard;

(b) They are interfering with or obscuring the clear vision of motor vehicle drivers;

(c) They are likely to injure, damage or disrupt persons, property or utility service; and/or

(d) They are preventing or substantially obstructing reasonable access to a lot or parcel of land;

(5) The proposed tree removal would not materially increase the risk of flooding or erosion on the property or on adjacent property, nor adversely affect a wetland or watercourse; and

(6) In the case of proposed removal of a protected tree for reasonable access to an existing or proposed building or other improvement, there is no feasible alternative location for the proposed access without resulting in unnecessary hardship on the part of the applicant.

(E) The Zoning Administrator may include reasonable terms and conditions in any tree removal permit, in order to ensure that the intent of this chapter will be fulfilled and to minimize damage to, encroachment upon, or interference with other trees within the public street right-of-way.

(F) *Appeal of denial of permit.* In the event that a permit applicant is aggrieved by the denial of a tree removal permit, or by the approval of a permit but with conditions with which the applicant disagrees, the applicant may appeal such action by the Zoning Administrator to the Tree Board.

(1) The applicant shall file such appeal in writing, stating the action complained of and the reasons and grounds for which the applicant believes that the action should be reversed, amended or modified.

(2) The completed application for the appeal shall be filed with the Zoning Administrator, who shall forward it to the Tree Board. The Tree Board shall convene within a reasonable time to consider the appeal. Any such meeting by the Tree Board shall be subject to the provisions of the Michigan Open Meetings Act.

(3) At a meeting, the Tree Board shall consider the appeal filed by the applicant. The Tree Board shall provide the applicant an opportunity to comment on the appeal. The Tree Board may consider the matter at subsequent meetings.

(4) The appeal shall be determined by majority affirmative vote of the regular, voting members of the Tree Board who are present and voting. The decision by the Tree Board in such a case shall constitute the final decision by the city with respect to the application for the tree removal permit. (Ord. 05-2011, passed 9-6-2011)

#### **§ 98.06 TREE PROTECTION DURING CONSTRUCTION OR DEVELOPMENT.**

(A) While removing trees for construction or development the owner shall take all reasonably necessary precautions to protect the remaining protected trees.

(B) Neither a property owner nor its agent shall cause or allow any construction or development activity to occur within the drip line of a protected tree, nor shall any solvents, building materials, vehicles, construction equipment, soil deposits, fill or other harmful materials be allowed to be placed, kept, parked or stored within the drip line of the trees. (Ord. 05-2011, passed 9-6-2011) Penalty, see § 98.99

#### **§ 98.07 TREE REMOVAL ON A VACANT LOT OR PARCEL.**

On any lot or parcel where construction or development is not proposed, a tree removal permit shall be required prior to the removal of any protected tree in accordance with § 98.05. (Ord. 05-2011, passed 9-6-2011)

**§ 98.08 LIMITED LIGHTING OF TREES ON PUBLIC RIGHTS-OF-WAY.**

Trees located in the public street rights-of-way or otherwise on public property shall not be decorated with strings of lights placed or maintained on or within them, nor shall such trees otherwise be lighted by other types of lighting placed on or within the trees; provided, however, that during the annual holiday season lights in observance of the season may be placed on such trees, in a manner that will not harm or damage the trees, but they shall not be placed on the trees earlier than November 1 and they shall be removed from the trees not later than the following March 31; but provided further, that such lights placed on trees in the public street rights-of-way in observance of the annual holiday season may remain on the trees after March 31 if approved by the Tree Board, subject to terms and conditions imposed by the Tree Board, and if the lights are placed only on or around the tree trunk, not the crown of the tree, and if the tree will not be harmed or damaged thereby.

(Ord. 05-2011, passed 9-6-2011) Penalty, see § 98.99

**§ 98.09 TREE REPLACEMENT PROGRAM.**

It is the intent of the city to maintain the numbers and the character of its trees; therefore, each tree lost in its public right-of-ways or public properties shall be replaced by an appropriate tree.

(A) Replacement trees shall measure no less than three inches in diameter as measured from six inches above the ground level.

(B) Trees lost by age, disease or by acts of nature shall be replaced as soon as possible under the direction of the Tree Board.

(C) Where a tree is lost within the public right-of-way or public property by negligent or intentional vandalism, the person, vehicle owner, or agent responsible shall be charged for the value of an equally sized replacement. If such a replacement is not available locally, the value of the tree will be computed from the State Forestry and Shade Tree "evaluation formula" and the responsible person shall be invoiced that amount to compensate for costs of removal and planting of a replacement.

(Ord. 05-2011, passed 9-6-2011)

**§ 98.99 PENALTY.**

(A) *Municipal civil infraction.* A violation of any term or provision of this chapter shall be a municipal civil infraction. The procedures for the issuance of municipal civil infraction citations and other matters pertaining to the issuance thereof shall be as stated in §§ 34.01 through 34.07 of the city code.

(B) The fine payable upon admission or determination of responsibility by a person served with a municipal civil infraction citation, for a violation of this chapter, shall be as stated in § 34.06 of the city code.

(C) The persons authorized under § 34.02 to issue municipal civil infraction citations shall be authorized to issue such citations for violations of this chapter.  
(Ord. 05-2011, passed 9-6-2011)



**CITY OF THE VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 05-2011**

**AN ORDINANCE TO AMEND THE ORDINANCES CODE  
OF THE CITY OF THE VILLAGE OF DOUGLAS, MICHIGAN**

**THE CITY OF THE VILLAGE OF DOUGLAS ORDAINS:**

That the Ordinance Code of the City of the Village of Douglas, Michigan, is hereby amended by adding Chapter 98, Sections 98.01 – 98.10 to Title IX to read as follows:

**TREE ORDINANCE**

**Section**

- 98.01 Purpose
- 98.02 Definitions
- 98.03 Tree Board
- 98.04 Trees in the public right-of-way and public property
- 98.05 Protection of trees; permit required for tree removal in public rights-of-way
- 98.06 Tree protection during construction or development
- 98.07 Tree removal on a vacant lot or parcel
- 98.08 Limited lighting of trees on public rights-of-way
- 98.09 Tree replacement program
- 98.10 Penalty

**§ 98.01. PURPOSE.**

This chapter is intended to regulate the removal of trees from public street rights-of-way in the city, and to preserve, protect and enhance valuable resources entrusted to its citizens. To protect the health, safety and welfare of its citizens, to establish standards limiting the removal of, and insuring the replacement of trees sufficient to safeguard the ecological and esthetic environment necessary for the city. To provide protective regulations against hazardous trees and diseased trees or shrubs; to control activities relative to trees and plantings within the public street rights-of-way of the city; to establish regulations and procedures for the removal of trees located on public street rights-of-way.

**§ 98.02. DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUILDING ENVELOPE.** The ground area of a lot or parcel of land enclosed or to be enclosed by the exterior walls or perimeter (foot print) of principal and accessory buildings, and any associated improvements including, but not limited to; pools, decks, patios, walks, tennis courts, driveways and utility services.

**DESTROY.** To remove (cut down) a protected tree or to perpetrate any intentional act of negligence which will cause a protected tree to decline or die within a period of two years. This shall include but not be limited to: damage inflicted upon the root system of a protected tree by the application of toxic substances, damage by the operation of equipment and vehicles, damage caused by excavation or fill within the drip line of a protected tree, or damage caused by alteration of natural physical conditions.

**DIAMETER BREAST HEIGHT (DBH).** A tree's diameter in inches measured four and one-half feet above the ground.

**DRIP LINE.** An imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

**PROTECTED TREE.** A tree that is six inches DBH or greater in size.

**TREE.** Any self supporting woody plant growing upon the earth which usually provides one main trunk and produces a distinct head with many branches.

**TREE PROTECTION ZONE (TPZ).** The area between the line extending ten feet beyond the building envelope and the property line.

### **§ 98.03. TREE BOARD.**

(A) *Purpose.* A Tree Board is hereby established for the purpose of regulating the planting, protection, preservation, and removal of trees within the public rights-of-way, and for the purpose of considering appeals from denials of tree removal permit applications and to undertake other responsibilities specified in this chapter.

(B) *Membership.* The Tree Board shall consist of the Mayor of the city or the Mayor's designee; one member of the Douglas Advisory Council (DAC) and one member of the community both to be appointed by the Mayor and Confirmed by the City Council. The members of the Tree Board may be assisted in their official responsibilities by staff members of the city, including the City Manager, the Superintendent of the Public Works Department and a licensed arborist appointed by the City Council or other appropriate city staff members.

(C) *Meetings.* Meetings shall be held at least once quarterly at the discretion of the Committee Chair, with the first meeting held the first full week of January. Meetings shall be subject to the Open Meetings Act.

(D) *Duties.* To review the policies and suggest changes to City Council or to Planning Commission, to develop a list of acceptable trees, and to develop rules and guidelines for administrative approvals.

### **§ 98.04. TREES IN THE PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY.**

(A) *Treatment of protected trees.* No tree upon any public right-of-way or public property shall be destroyed, pruned, girdled, broken, bent, wounded or have notices or signs tacked upon without the consent of the City Manager under the direction of the Tree Board.

(B) *Planting of trees or shrubs.* No person shall climb or walk upon the branches of a protected tree in any public right-of-way or public property while wearing spurs or other climbing attire unless such person is in the permitted act of removing or maintaining a tree. No trees or shrubs shall be planted upon any public right-of-way or public property without the consent of the City Manager. No trees shall be planted at public expense upon private property unless a public easement has been granted in a form acceptable to the city.

**§ 98.05. PROTECTION OF TREES; PERMIT REQUIRED FOR TREE REMOVAL IN PUBLIC RIGHTS-OF-WAY.**

(A) *Purpose.* The tree canopy contributes to the visual character of the city and trees are important natural resources and assets of the city. Therefore, every effort must be made to ensure that only the minimum numbers of protected trees are removed prior to construction of new structures, or alterations/additions to existing structures and in other approved circumstances. It is the intent of this chapter that a permit should not be granted for the removal of a protected tree where a reasonable alternative design solution exists that is consistent with the use of the property.

(B) *Permit required.* A Tree removal permit shall be required for and prior to the removal, relocation, or destruction of any tree located within any public street right-of-way; provided, however, that no such permit shall be required in order for the city to remove or otherwise affect any tree located within a public street right-of-way, and the city retains its authority with respect to public street rights-of-way, irrespective of the provisions of this chapter.

(C) *Application for permit.* A person seeking a tree removal permit for the removal, relocation or destruction of a tree within a public street right-of-way, shall complete a tree removal permit application and submit the application to the Zoning Administrator. The applicant shall also prepare and submit to the Administrator, a site plan including at least the following information:

(1) The tree or trees that are proposed to be removed, relocated or destroyed. Such trees shall also be identified by written description or by a photograph. The location and general description of the other protected trees within the adjacent street right-of-way that are proposed to remain undisturbed shall also be stated.

(2) A description of any grade changes or other changes within the street right-of-way that may occur as a result of the proposed tree removal, if such changes or results will have an adverse effect on any trees remaining in that part of the street right-of-way adjacent to the applicant's property.

(D) *Approval of permit.* The Zoning Administrator shall grant and approve a tree removal permit upon finding that all of the following requirements are satisfied:

(1) The applicant has submitted a site plan or other information satisfactorily demonstrating that the number of trees and the particular trees proposed to be removed are the minimum number needed to be removed in order to achieve the results sought by the applicant.

(2) The Applicant has satisfactorily demonstrated that harm or other negative impacts to the remaining trees on that part of the street right-of-way adjacent to the applicant's property will be minimized or avoided.

(3) There are no desirable, prudent or reasonably feasible alternatives whereby the desired results could be achieved, other than the removal, relocation or destruction of the trees indicated by the applicant.

(4) The tree or trees proposed for removal, relocation or destruction need to be removed for at least one of the following reasons:

- (a) They are a safety hazard;
- (b) They are interfering with or obscuring the clear vision of motor vehicle drivers;
- (c) They are likely to injure, damage or disrupt persons, property or utility service; and/or
- (d) They are preventing or substantially obstructing reasonable access to a lot or parcel of land.

(5) The proposed tree removal would not materially increase the risk of flooding or erosion on the property or on adjacent property, nor adversely affect a wetland or watercourse.

(6) In the case of proposed removal of a protected tree for reasonable access to an existing or proposed building or other improvement, there is no feasible alternative location for the proposed access without resulting in unnecessary hardship on the part of the applicant.

(E) The Zoning Administrator may include reasonable terms and conditions in any tree removal permit, in order to ensure that the intent of this chapter will be fulfilled and to minimize damage to, encroachment upon, or interference with other trees within the public street right-of-way.

(F) *Appeal of denial of permit.* In the event that a permit applicant is aggrieved by the denial of a tree removal permit, or by the approval of a permit but with conditions with which the applicant disagrees, the applicant may appeal such action by the Zoning Administrator to the Tree Board.

(1) The applicant shall file such appeal in writing, stating the action complained of and the reasons and grounds for which the applicant believes that the action should be reversed, amended or modified.

(2) The completed application for the appeal shall be filed with the Zoning Administrator, who shall forward it to the Tree Board. The Tree Board shall convene within a reasonable time to consider the appeal. Any such meeting by the Tree Board shall be subject to the provisions of the Michigan Open Meetings Act.

(3) At a meeting, the Tree Board shall consider the appeal filed by the applicant. The Tree Board shall provide the applicant an opportunity to comment on the appeal. The Tree Board may consider the matter at subsequent meetings.

(4) The appeal shall be determined by majority affirmative vote of the regular, voting members of the Tree Board who are present and voting. The decision by the Tree Board in such a case shall constitute the final decision by the city with respect to the application for the tree removal permit.

#### **§ 98.06. TREE PROTECTION DURING CONSTRUCTION OR DEVELOPMENT.**

(A) While removing trees for construction or development the owner shall take all reasonably necessary precautions to protect the remaining protected trees.

(B) Neither a property owner nor its agent shall cause or allow any construction or development activity to occur within the drip line of a protected tree, nor shall any solvents, building materials, vehicles, construction equipment, soil deposits, fill or other harmful materials be allowed to be placed, kept, parked or stored within the drip line of the trees.

**§ 98.07. TREE REMOVAL ON A VACANT LOT OR PARCEL.**

On any lot or parcel where construction or development is not proposed, a tree removal permit shall be required prior to the removal of any protected tree in accordance with § 00.00

**§ 98.08. LIMITED LIGHTING OF TREES ON PUBLIC RIGHTS-OF-WAY.**

Trees located in the public street rights-of-way or otherwise on public property shall not be decorated with strings of lights placed or maintained on or within them, nor shall such trees otherwise be lighted by other types of lighting placed on or within the trees; provided, however, that during the annual holiday season lights in observance of the season may be placed on such trees, in a manner that will not harm or damage the trees, but they shall not be placed on the trees earlier than November 1 and they shall be removed from the trees not later than the following March 31; but provided further, that such lights placed on trees in the public street rights-of-way in observance of the annual holiday season may remain on the trees after March 31 if approved by the Tree Board, subject to terms and conditions imposed by the Tree Board, and if the lights are placed only on or around the tree trunk, not the crown of the tree, and if the tree will not be harmed or damaged thereby.

**§ 98.09. TREE REPLACEMENT PROGRAM.**

It is the intent of the city to maintain the numbers and the character of its trees; therefore, each tree lost in its public right-of-ways or public properties shall be replaced by an appropriate tree.

(A) Replacement trees shall measure no less than three inches in diameter as measured from six inches above the ground level.

(B) Trees lost by age, disease or by acts of nature shall be replaced as soon as possible under the direction of the Tree Board.

(C) Where a tree is lost within the public right-of-way or public property by negligent or intentional vandalism, the person, vehicle owner, or agent responsible shall be charged for the value of an equally sized replacement. If such a replacement is not available locally, the value of the tree will be computed from the State Forestry and Shade Tree "evaluation formula" and the responsible person shall be invoiced that amount to compensate for costs of removal and planting of a replacement.

**§ 98.10. PENALTY.**

(A) *Municipal civil infraction.* A violation of any term or provision of this chapter shall be a municipal civil infraction. The procedures for the issuance of municipal civil infraction citations and other matters pertaining to the issuance thereof shall be as stated in § 34.01 - 34.07 of the city code.

(B) The fine payable upon admission or determination of responsibility by a person served with a municipal civil infraction citation, for a violation of this chapter, shall be as stated in § 34.06 of the city code.

(C) The persons authorized under § 34.02 to issue municipal civil infraction citations shall be authorized to issue such citations for violations of this chapter.

**Publication:** Within fifteen (15) days of its adoption, this Ordinance or a notice of adoption summarizing the Ordinance, as required by law, shall be published by the City Clerk in a newspaper of general circulation in the City.

**Effective Date:** This Ordinance shall become effective twenty (20) days after the date of publication.

Ordinance Offered by: Greenwood

Ordinance Supported by: Mayer

Ayes: Greenwood, Harvath, Hoexter, Mayer, Smith, Wiley, Waddell

Nays: None

Abstain: None

Absent: None

ORDINANCE DECLARED ADOPTED.

*R. Waddell* Date: September 6, 2011

Renee Waddell, Mayor

*Jean E. Neve* Date: September 6, 2011

Jean E. Neve, City Clerk

Ordinance Adoption Date: September 6, 2011

Ordinance Effective Date: October 3, 2011

**CERTIFICATE**

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of the Village of Douglas at a meeting held on September 6, 2011 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.

*Jean E. Neve*

Jean E. Neve, City Clerk

## CHAPTER 151: WATERFRONT CONSTRUCTION

### Section

#### *General Provisions*

- 151.001 Purpose
- 151.002 Objectives
- 151.003 Definitions
- 151.004 Other agency permits

#### *Major Construction*

- 151.015 Definition
- 151.016 Permit required
- 151.017 Site plan review
- 151.018 Pier/dock construction
- 151.019 Bulkhead construction
- 151.020 Bulkhead location
- 151.021 Backfill and dredging
- 151.022 Spring piles
- 151.023 Wetlands
- 151.024 Permit procedure; contents
- 151.025 Filing fees
- 151.026 Processing of application
- 151.027 Duties of Planning Commission
- 151.028 Notice of hearing
- 151.029 Denial of permit
- 151.030 Modification of plan
- 151.031 Assistance of Building Inspector or engineer

#### *Minor Construction*

- 151.045 Definition
- 151.046 Permit required
- 151.047 Pier/dock construction
- 151.048 Number of piers/docks
- 151.049 Bulkheads
- 151.050 Backfill and dredging

**Douglas - Land Usage**

- 151.051 Boat lifts
- 151.052 Mooring buoys
- 151.053 Permit procedure
- 151.054 Processing of application
- 151.055 Public hearing
- 151.056 Filing fees

***Unsafe Structures***

- 151.070 Use
- 151.071 Removal
- 151.072 Notice

***Administration and Enforcement***

- 151.085 Enforcement
- 151.086 Revocation of permit
- 151.087 Assistance of Building Inspector or engineer
- 151.088 Appeals
  
- 151.999 Penalty

***GENERAL PROVISIONS*****§ 151.001 PURPOSE.**

The purpose of this chapter is to establish requirements and procedures for the construction and location of piers/docks, pilings, bulkheads, and mooring buoys in and immediately adjacent to the waters of the Kalamazoo River, Kalamazoo Lake, and Lake Michigan, within the city; to regulate dredging and backfill below the ordinary high-water mark; to provide for administration and enforcement of this chapter; to provide for penalties for violation of this chapter; and to repeal all ordinances which are in conflict with this chapter.

(1995 Code, § 62-31) (Ord. 101-A, passed 8-3-1987)

**§ 151.002 OBJECTIVES.**

The objectives of this chapter are to ensure minimal disturbance of the natural ecology; to ensure minimal interference with the Kalamazoo River, Kalamazoo Lake, and Lake Michigan, for recreational purposes such as small boat sailing and racing, canoeing, and fishing; to prevent interference with riparian rights of other property owners; and to promote the public health, safety, and general welfare. (1995 Code, § 62-32) (Ord. 101-A, passed 8-3-1987)

**§ 151.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOAT HOIST.** A mechanism or apparatus used to raise up and hold a boat out of the water, not to exceed 5,000 pounds in capacity.

**BULKHEAD.** A wall or retaining structure constructed along a waterway to prevent the earth behind it from sliding or eroding.

**DOCK.** The same as the word *PIER*.

**DREDGED MATERIAL.** The material which is excavated or dredged from a body of water or river.

**FINGER PIER.** A pier/dock extending at right angles from the main pier and often located parallel with the shoreline.

**LITTORAL MATERIAL.** Material existing on shore or in the water which is subject to erosion and displacement by wave forces.

**MAJOR CONSTRUCTION.** All waterfront construction, as set forth in §§ 151.015 *et seq.*, requiring a major construction permit.

**MARINA.** A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities, and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a marina under this chapter.

**MINOR CONSTRUCTION.** All waterfront construction, as set forth in §§ 151.045 *et seq.*, requiring a minor construction permit.

**NONCONFORMING STRUCTURE.** Any boat lift, bulkhead, dock, finger pier, pier, wharf, or other structure that is, because of width, length, location, live-load capabilities, and the like, not in conformance with the regulations contained in this chapter.

**ORDINARY HIGH-WATER MARK.** Within and up to two feet of the ordinary mark as established on June 1 of the current year or June 1 of the previous year, whichever is applicable, and/or at the discretion of the City Planning Commission.

**PIER.** A platform extending perpendicular from the shore over water and supported by piles, pillars, or columns, used to secure and protect watercraft. The terms **PIER** and **DOCK** as used in this chapter shall be synonymous.

**SPRING PILES.** A beam of timber, concrete, or steel beams, driven into the water bottom as a means of securing watercraft, or to facilitate the maneuvering of watercraft.

**WETLANDS.** Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. **WETLANDS** generally include swamp, marshes, bogs, and similar areas.

**WHARF.** A platform or other flat structure extending shoreward of a bulkhead running parallel with the shoreline.

**ZONING ADMINISTRATOR.** The person appointed by the City Council pursuant to the city zoning ordinance to administer the city zoning ordinance and this chapter.  
(1995 Code, § 62-33) (Ord. 101-A, passed 8-3-1987)

#### § 151.004 OTHER AGENCY PERMITS.

Prior to the issuance of a permit by the city to an applicant, he or she shall first apply and seek approval from the Army Corps of Engineers, the State Department of Natural Resources, and any other federal and state regulatory agencies when required by federal and state laws. The applicant will submit copies of these permits and approvals with his or her application to the city for approval. The obtaining of a permit from the Army Corps of Engineers or any other federal or state agency shall not relieve the applicant from complying fully with this chapter, and obtaining a permit pursuant to its provisions.  
(1995 Code, § 62-34) (Ord. 101-A, passed 8-3-1987)

***MAJOR CONSTRUCTION*****§ 151.015 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***MAJOR CONSTRUCTION.*** The construction, reconstruction, repair, or replacement of bulkheads, docks, piers, boat lifts, or other structures or a condominium extending into or located on the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan where the purpose is to rent, lease, or otherwise make available to the general public, space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment. ***MAJOR CONSTRUCTION*** shall also include any pier/dock whether for commercial or private use, which extends into the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan which exceeds 45 feet in length. A major construction permit shall always be required for waterfront construction in connection with the establishment of a private commercial marina where permitted under the city zoning ordinance. (1995 Code, § 62-51) (Ord. 101-A, passed 8-3-1987)

**§ 151.016 PERMIT REQUIRED.**

Prior to commencement of any major waterfront construction, a permit shall be obtained from the city in accordance with the procedures set forth in this chapter. (1995 Code, § 62-52) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.017 SITE PLAN REVIEW.**

All major waterfront construction shall be subject to site plan review. (1995 Code, § 62-53) (Ord. 101, passed 2-4-1985; Am. Ord. 101-A, passed 8-3-1987)

**§ 151.018 PIER/DOCK CONSTRUCTION.**

Piers/docks constructed pursuant to this chapter shall not extend outboard more than 100 feet from the bulkhead. The main pier extending perpendicular from the shoreline shall have a minimum width of four feet. Finger piers extending from the main pier shall not exceed 60 feet in length, and shall have a minimum width of three feet. Piers/docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact in adjacent properties and environments. All piers/docks shall be located so as not to infringe on the riparian rights of other property owners. Pier/dock construction must be substantial, and the design and materials must be consistent with

established construction standards as required by the State Construction Code. All piers/docks constructed under a major construction permit shall have the capability to carry a live load of 100 pounds per square foot and shall have located thereon adequate lighting in areas available for public use in periods of darkness.

(1995 Code, § 62-54) (Ord. 101, passed 2-4-1985; Am. Ord. 101-A, passed 8-3-1987; Am. Ord. 02-2016, passed 5-16-2016) Penalty, see § 151.999

#### **§ 151.019 BULKHEAD CONSTRUCTION.**

The entire property shoreline shall be protected by an impermeable bulkhead. Bulkhead design and construction shall be consistent with the established construction standards. Bulkheads shall not be less than one foot higher than the highest water level on record, and the top of the bulkhead shall not be less than six inches higher than the backfill on adjacent terrain.

(1995 Code, § 62-55) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

#### **§ 151.020 BULKHEAD LOCATION.**

Bulkheads shall not be located on a line closer toward the water than the nearest existing structure of a similar nature, or at a location on the bottom of high water datum (579.8 feet).

(1995 Code, § 62-56) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

#### **§ 151.021 BACKFILL AND DREDGING.**

Backfill and dredging, if to be performed in connection with major construction, must be specified in requests for all permits as to: need, location, quality, and disposition of spoil. Only clean backfill may be used.

(1995 Code, § 62-57) (Ord. 101-A, passed 8-3-1987) Penalty, see § 151.999

#### **§ 151.022 SPRING PILES.**

Spring piles shall be considered part of the basic structure and must be located within the overall length requirements for piers/docks as set forth in this chapter.

(1995 Code, § 62-58) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

#### **§ 151.023 WETLANDS.**

No major construction shall be allowed in wetland areas.

(1995 Code, § 62-59) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

§ 151.024 PERMIT PROCEDURE; CONTENTS.

(A) An application for major construction permits shall be filed with the Zoning Administrator, or his or her designated agent, appointed pursuant to the city zoning ordinance.

(B) The application shall be available at the City Clerk's office and shall require the following information:

- (1) Applicant's full name, mailing address, and telephone number;
- (2) Location where proposed construction activity will occur;
- (3) The legal description of upland property at the waterfront construction site;
- (4) Reason for the proposed waterfront construction, its purpose, and intended use;
- (5) The name and address of the owner of the upland real property;
- (6) A statement as to why construction will not cause pollution, impair or destroy the water or any natural resources;
- (7) A description of any alternatives to the proposed waterfront construction, if any have been considered;
- (8) The names and addresses of adjacent property owners, and a statement as to whether any objections have been made to the applicant concerning the proposed waterfront construction;
- (9) The name, address, and telephone number of the applicant's authorized agent, if the application is being handled through an agent, attorney, or other representative of the applicant;
- (10) The dates the proposed waterfront construction is intended to commence and be completed;
- (11) Whether an application to the other appropriate federal or state agency, as required by law, has been made, and the date the application has been submitted;
- (12) A statement as to whether the proposed construction has been approved or denied or not acted upon by other state or federal agencies, as required by law;
- (13) Plans of the proposed waterfront construction in appropriate form, as set forth in the permit application;
- (14) A statement as to whether the facility is to be leased, rented, or made available to the general public, or is to be used in conjunction with any other commercial facility available for use by the general public; and

(15) Copies or evidence of Corps of Engineers and State Department of Natural Resources permits.

(1995 Code, § 62-60) (Ord. 101, passed 2-4-1985)

#### **§ 151.025 FILING FEES.**

A filing fee, as determined by the City Council and set forth in its schedule of fees, shall accompany each application.

(1995 Code, § 62-61) (Ord. 101, passed 2-4-1985)

#### **§ 151.026 PROCESSING OF APPLICATION.**

Within ten days from the date of filing the application, the Zoning Administrator, or his or her designated agent, shall review the application and forward the same to the City Planning Commission with any comments that the Zoning Administrator, or his or her designated agent, deems appropriate. Any incomplete application filed with the Zoning Administrator or his or her designated agent shall be returned to the applicant. However, another filing fee shall not be required upon resubmission of a prior incomplete application.

(1995 Code, § 62-62) (Ord. 101, passed 2-4-1985)

#### **§ 151.027 DUTIES OF PLANNING COMMISSION.**

(A) The Planning Commission shall consider the application within 30 days after receipt of the application from the Zoning Administrator and then schedule a public hearing unless further time is agreed upon by the parties concerned.

(B) The Planning Commission shall approve, deny, or require modification of proposed major construction, and, in doing so, shall consider the following criteria:

(1) The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site;

(2) The impact the construction would have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create;

(3) Compliance with the requirements of this chapter;

(4) Compliance with the city zoning ordinance, including site plan review; and

(5) Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

(1995 Code, § 62-63) (Ord. 101-A, passed 8-3-1987)

#### **§ 151.028 NOTICE OF HEARING.**

The Zoning Administrator or his or her designated agent shall have published a notice of the date, time, and place of the public hearing to consider the application and receive objections, and the notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction. The notice shall be published at least one time in a newspaper of general circulation in the city, not less than ten days before the date set for the public hearing. In addition, notice shall be sent to all property owners within 300 feet.

(1995 Code, § 62-64) (Ord. 101-A, passed 8-3-1987)

#### **§ 151.029 DENIAL OF PERMIT.**

If the Planning Commission shall deny the application for permit, it shall state the reasons therefor.

(1995 Code, § 62-65) (Ord. 101, passed 2-4-1985)

#### **§ 151.030 MODIFICATION OF PLAN.**

The Planning Commission shall have the right to require modifications of the proposed major construction plan as submitted in the application, and may issue a permit conditional on the applicant's acceptance of the modifications, as determined by the Planning Commission. No final approval or occupancy permits shall be issued until these conditions are met.

(1995 Code, § 62-66) (Ord. 101-A, passed 8-3-1987)

#### **§ 151.031 ASSISTANCE OF BUILDING INSPECTOR OR ENGINEER.**

Before approval of the application, the Planning Commission may request the opinion of the City Building Inspector or the licensed engineer as it may designate regarding the proposed major construction. If such an opinion is desired by the Planning Commission, it may delay a decision on the application submitted pursuant to this chapter for a period of not more than 30 days from the date of the public hearing.

(1995 Code, § 62-67) (Ord. 101, passed 2-4-1985)

***MINOR CONSTRUCTION*****§ 151.045 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***MINOR CONSTRUCTION.*** Construction of bulkheads, piers/docks, mooring buoys, boat lifts, or other structures extending into or located on the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan, where the purpose is for the private use of the facility by the property owner, and not for rent, lease, or availability to the general public as a commercial facility or yacht club. The purpose of this classification is to permit construction of any dock, pier, or wharf not longer than 45 feet, on any one parcel of land.

(1995 Code, § 62-86) (Ord. 101-A, passed 8-3-1987)

**§ 151.046 PERMIT REQUIRED.**

Prior to the commencement of the minor waterfront construction, a permit shall be obtained from the city in accordance with the procedures of this chapter.

(1995 Code, § 62-87) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.047 PIER/DOCK CONSTRUCTION.**

Piers/docks constructed pursuant to this chapter shall not extend outboard more than 45 feet from the bulkhead or shoreline, the length of which shall be measured from the bulkhead, or at a location on the bottom of the high water datum (579.8 feet). All piers/docks shall be substantially constructed and meet generally accepted construction standards. Piers/docks shall normally be of straight form and perpendicular to the bulkhead or shoreline. Finger piers shall not be permitted.

(1995 Code, § 62-88) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.048 NUMBER OF PIERS/DOCKS.**

Only one pier or dock shall be allowed per lot or parcel.

(1995 Code, § 62-89) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.049 BULKHEADS.**

Bulkheads may be required at the discretion of the Zoning Administrator or his or her designated agent depending on the conformation of the shore area and its contemplated use, and, if necessary, to prevent erosion of the shoreline by wave action, or to prevent pollution by material from the shore caused by local conditions. Construction and location, if required, shall be in accordance with § 151.019.

(1995 Code, § 62-90) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.050 BACKFILL AND DREDGING.**

Backfill and dredging in minor construction projects shall be controlled the same as set forth in § 151.021.

(1995 Code, § 62-91) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.051 BOAT LIFTS.**

Boat lifts shall be permitted for seasonal use. A boat lift may be installed in place of a pier or dock or at the end of a pier or dock, but in that case shall extend not more than 45 feet from the bulkhead or shoreline. One boat lift per parcel or lot shall be permitted.

(1995 Code, § 62-92) (Ord. 101-A, passed 8-3-1987) Penalty, see § 151.999

**§ 151.052 MOORING BUOYS.**

A single mooring buoy may be directly located off the shore or bulkhead. However, it must meet USCG design standards and lighting requirements for buoy and boat. One single mooring buoy shall be permitted per parcel or lot.

(1995 Code, § 62-93) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.053 PERMIT PROCEDURE.**

An application for a minor construction permit shall be filed with the Zoning Administrator or his or her designated agent. The application form shall be available at the city office and shall require the same information as set forth in § 151.024. Upon receipt of the application, adjacent property owners shall be notified and have the opportunity to respond within eight days.

(1995 Code, § 62-94) (Ord. 101-A, passed 8-3-1987)

**§ 151.054 PROCESSING OF APPLICATION.**

The Zoning Administrator, or his or her designated agent, shall review the application within ten days from the date of filing the application with the Zoning Administrator or his or her designated agent. If the Zoning Administrator, or his or her designated agent, determines that the proposed construction is, in fact, minor construction, and that the proposed minor construction otherwise complies with the requirements of this subchapter, he or she shall issue a permit to the applicant. If the Zoning Administrator, or his or her designated agent, determines that the proposed minor construction does not comply with this subchapter, he or she shall not issue the permit until the proposed minor construction is modified accordingly. If the Zoning Administrator, or his or her designated agent, finds that the proposed minor construction is major construction as defined in § 151.015, he or she shall refer the same to the Planning Commission which shall act on the application in accordance with §§ 151.015 *et seq.* (1995 Code, § 62-95) (Ord. 101, passed 2-4-1985)

**§ 151.055 PUBLIC HEARING.**

It is the intent of this subchapter to provide for speedy processing of minor construction permits. No public hearing before the Planning Commission shall be required for all construction which constitutes minor construction. (1995 Code, § 62-96) (Ord. 101, passed 2-4-1985)

**§ 151.056 FILING FEES.**

A filing fee as determined by the City Council and set forth in its schedule of fees shall accompany each application. (1995 Code, § 62-97) (Ord. 101, passed 2-4-1985)

***UNSAFE STRUCTURES*****§ 151.070 USE.**

No owner or occupant of premises on which a pier/dock, bulkhead, boat hoist, mooring buoy, or other waterfront structure has deteriorated or fallen into disrepair or has been damaged by fire, ice, or other casualty shall permit the use thereof, and the owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition. Until removed or placed in a safe and sound condition, the owner or occupant shall post a warning notice and block access thereto. (1995 Code, § 62-121) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.071 REMOVAL.**

Any dilapidated or dangerous waterfront structure constructed pursuant to this chapter along the waterfront of the city shall constitute a public nuisance and shall be removed or repaired within 30 days after notice of the condition has been given to the owner of the property involved.

(1995 Code, § 62-122) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

**§ 151.072 NOTICE.**

If such a dilapidated or dangerous waterfront structure exists, the Zoning Administrator, or his or her designated agent, shall send a notice of the condition to the owner of the premises, as is disclosed by the last tax roll of the city at the address as is shown thereon, by certified mail. The notice shall require that the dangerous structure is removed or repaired. Any person who fails, refuses, or neglects to repair or remove such a dangerous or dilapidated structure, within the time limits provided for in section § 151.071, shall be guilty of a misdemeanor and subject to prosecution and penalty as provided for in § 151.999.

(1995 Code, § 62-123) (Ord. 101, passed 2-4-1985) Penalty, see § 151.999

***ADMINISTRATION AND ENFORCEMENT*****§ 151.085 ENFORCEMENT.**

The Zoning Administrator, or his or her designated agent, shall administer and enforce this chapter, and shall have the right to enter and inspect periodically all major and minor construction sites during the process of the work and shall inspect construction upon completion of the work to ensure compliance with this chapter, before issuing an occupancy permit.

(1995 Code, § 62-151) (Ord. 101-A, passed 8-3-1987)

**§ 151.086 REVOCATION OF PERMIT.**

The Zoning Administrator, or his or her designated agent, shall have the authority to revoke any permit issued pursuant to this chapter, if the requirements of the permit and the provisions of this chapter are being violated, and in that case shall have the power to issue a stop-work order.

(1995 Code, § 62-152) (Ord. 101, passed 2-4-1985)

**§ 151.087 ASSISTANCE OF BUILDING INSPECTOR OR ENGINEER.**

The Zoning Administrator, or his or her designated agent, may seek the advice and assistance of the City Building Inspector or the licensed engineer as he or she may designate if he or she feels it necessary to ensure compliance with this chapter. The Building Inspector and/or licensed engineer shall render the assistance when requested to do so.

(1995 Code, § 62-153) (Ord. 101, passed 2-4-1985)

**§ 151.088 APPEALS.**

Any person aggrieved by any order, decision, requirement, or ruling by the Zoning Administrator, or his or her designated agent, or the Planning Commission under this chapter may take an appeal directly to the circuit court.

(1995 Code, § 62-157) (Ord. 101, passed 2-4-1985)

**§ 151.999 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Penalty for violation.* Any construction along or abutting upon or extending into the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan, in violation of this chapter is hereby declared to be a nuisance per se. Any person who shall violate or refuse to comply with the provisions of this chapter, or fail to obey any lawful order of the Zoning Administrator, or his or her designated agent, or Planning Commission in the enforcement of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed \$100 or imprisonment not to exceed 90 days. The Zoning Administrator, or his or her designated agent, or the City Planning Commission or the City Council is authorized and empowered to make a complaint before a court of competent jurisdiction when, in their opinion, the provisions of this chapter have been violated.

(1995 Code, § 62-154) (Ord. 101-A, passed 8-3-1987)

(C) *Other relief.* The City Council or the owners of real property affected may institute injunction, mandamus, abatement, or any other appropriate legal action or proceedings to prevent, enjoin, abate, or remove any structure constructed and maintained in violation of this chapter.

(1995 Code, § 62-155) (Ord. 101, passed 2-4-1985)

(D) *Continuing violation.* Each day of violation of this chapter shall be considered a separate offense.

(1995 Code, § 62-156) (Ord. 101, passed 2-4-1985)

ORDINANCE NO. 101  
WATERFRONT CONSTRUCTION ORDINANCE  
FOR THE  
VILLAGE OF DOUGLAS,  
ALLEGAN COUNTY,  
MICHIGAN

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ORDINANCE NO. 101

VILLAGE OF DOUGLAS, COUNTY OF ALLEGAN, STATE OF MICHIGAN  
WATERFRONT CONSTRUCTION ORDINANCE

THE VILLAGE OF DOUGLAS ORDAINS;

ARTICLE I

INTENT

1.0 Title

This Ordinance shall be known as the Village of Douglas Waterfront Construction Ordinance.

1.1 Purpose:

The purpose of this Ordinance is to establish requirements and procedures for the construction and location of pier/docks, pilings, bulkheads and mooring bays in and immediately adjacent to the waters of the Kalamazoo River and Kalamazoo Lake within the Village of Douglas; to regulate dredging and backfill below the ordinary high-water mark; to provide for administration and enforcement of this Ordinance; to provide for penalties for violation of this Ordinance and to repeal all Ordinances which are in conflict with this Ordinance.

1.2 Objectives:

The objective of this Ordinance is to assure minimal disturbance of the natural ecology; to assure minimal interference with the Kalamazoo River and Kalamazoo Lake for recreational purposes such as small boat sailing and racing, canoeing and fishing; to prevent interference with riparian rights of other property owners, and to promote the public health, safety and general welfare.

ARTICLE II  
DEFINITIONS

2.0 Bulkhead:

A wall or retaining structure constructed along a waterway to prevent the earth behind it from sliding or eroding. A bulkhead may constitute a pier, dock or quay for mooring watercraft.

2.1 Boat Hoist:

A mechanism or apparatus used to raise up and hold a boat out of the water.

2.2 Dredged Material:

The material which is excavated or dredged from a body of water or river.

2.3 Dock:

As used in this Ordinance, dock shall mean the same as "pier" defined in Section 2.10 of this Ordinance.

2.4 Finger Pier:

A pier/dock extending at right angles from the main pier and often located parallel with the shoreline.

2.5 Littoral Material:

Material existing on shore or in the water which is subject to erosion and displacement by wave forces.

2.6 Major Construction:

All waterfront construction as set forth in Article III of this Ordinance, requiring a major construction permit.

2.7 Marina:

A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities, and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a marina under this Ordinance.

2.8 Minor Construction:

All waterfront construction as set forth in Article IV of this Ordinance, requiring a minor construction permit.

2.9 Ordinary High Water Mark:

The regulatory line established by the Corps of Engineers General Permit for construction on the Kalamazoo River dated February 5, 1981 shall constitute the ordinary high water mark.

2.10 Piers:

A platform extending from the shore over water and supported by piles, pillars or columns, used to secure and protect watercraft. The terms "pier" and "dock" as used in this Ordinance shall be synonymous.

2.11 Spring Piles:

A beam of timber, concrete or steel beams, driven into the water bottom as a means of securing watercraft, or to facilitate the maneuvering of watercraft.

2.12 Wetlands:

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamp, marshes, bogs and similar areas.

2.13 Zoning Administrator:

That person appointed by the Village Council pursuant to the Village Zoning Ordinance to administer the Village Zoning Ordinance and this Ordinance.

ARTICLE III  
MAJOR WATERFRONT REGULATIONS

3.0 Permit:

Prior to commencement of any major waterfront construction as hereinafter defined, a permit shall be obtained from the Village of Douglas in accordance with the procedures set forth in this Article.

3.1 Major Construction Defined:

The construction of bulkheads, docks, piers, boat hoists, or other structures, or a condominium extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease or otherwise make available to the general public, space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment. Major construction shall also include any pier/dock whether for commercial or private use, which extends into the waters of the Kalamazoo River or Kalamazoo Lake which exceeds forty five (45) feet in length. A major construction permit shall always be required for waterfront construction in connection with the establishment of a private or commercial marina where permitted under the Village of Douglas Zoning Ordinance.

3.2 Compliance with Zoning Ordinance:

When major waterfront construction is to be in conjunction with a commercial facility, or commercial or private marina, issuance of a major construction permit shall be conditioned upon full compliance with the applicable provisions of the Village of Douglas Zoning Ordinance.

3.3 Pier/Dock Construction:

Piers/docks constructed pursuant to this Article shall not extend outboard more than one hundred (100) feet from the bulkhead, or at a location on the bottom of high water datum (579.8'). The main pier extending perpendicular from the shoreline shall have a minimum width of four (4) feet. Finger piers extending from the main pier shall not exceed thirty (30) feet in length, and shall have a minimum width of three (3) feet. Piers/docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact in adjacent properties and environments. All pier/docks shall be located so as not to infringe on the riparian rights of other property owners. Pier/dock construction must be substantial and the design and materials must be consistent with established construction standards as required by the State of Michigan Construction Code. All pier/docks constructed under a major construction permit shall have the capability to carry a live load of one hundred (100) pounds per square foot and shall have located thereon adequate lighting in areas available for public use in periods of darkness.

3.4 Bulkhead Construction:

The entire property shoreline shall be protected by an impermial bulkhead. Bulkhead design and construction shall be consistent with the established construction standards. Bulkheads shall not be less than one (1) foot higher than the highest water level on record, and the top of the bulkhead shall not be less than six (6) inches higher than the backfill on adjacent terrain.

3.5 Bulkhead Location:

Bulkheads shall not be located on a line closer toward the water than the nearest existing structure of a similar nature, or at a location on the bottom of high water datum (579.8').

3.6 Backfill and Dredging:

Backfill and dredging, if to be performed in connection with major construction must be specified in requests for all permits as to: (a) need, (b) location, (c) quantity, (d) disposition of spoil. Backfill may be with dredged material, but below the normal high water mark, shall not be more than two (2) cubic yards per foot of lineal placement, unless otherwise authorized by the Department of the Army Corps of Engineers permit.

3.7 Spring Piles:

Spring piles shall be considered part of the basic structure and must be located within the overall length requirements for piers/docks as set forth in this Article.

3.8 Wetlands:

No major construction shall be allowed in wetland areas.

3.9 Permit Procedures:

An application for major construction permits shall be filed with the Zoning Administrator, or his designated agent, appointed pursuant to the Village of Douglas Zoning Ordinance. The application shall be available at the Village Clerk's office and shall require the following information:

- A) Applicants' full name, mailing address and telephone number.
- B) Location where proposed construction activity will occur.
- C) The legal description of upland property at the waterfront construction site.
- D) Reason for the proposed waterfront construction, its purpose and intended use.
- E) The name and address of the owner of the upland real property.

- F) A statement as to why construction will not cause pollution, impair or destroy the water or any natural resources.
- G) A description of any alternatives to the proposed waterfront construction if any have been considered.
- H) The names and addresses of adjacent property owners, and a statement as to whether any objections have been made to the applicant concerning the proposed waterfront construction.
- I) The name, address and telephone number of the applicants' authorized agent, if the application is being handled through an agent, attorney or other representative of the applicant.
- J) The dates the proposed waterfront construction is intended to commence and be completed.
- K) Whether an application to the other appropriate federal or state agency, as required by law, have been made, and the date such application has been submitted.
- L) A statement as to whether the proposed construction has been approved or denied or not acted upon by other state or federal agencies as required by law.
- M) Plans of the proposed waterfront construction in appropriate form as set forth in the permit application.
- N) A statement as to whether the facility is to be leased, rented or made available to the general public, or is to be used in conjunction with any other commercial facility available for use by the general public.

3.10 Filing Fees:

A filing fee as determined by the Douglas Village Council and set forth in its Schedule of Fees shall accompany each application.

3.11 Processing of Application:

Within ten (10) days from the date of filing the application, the Zoning Administrator, or his designated agent, shall review the application and forward the same to the Douglas Village Planning Commission with any comments that the Zoning Administrator, or his designated agent, deems appropriate. Any incomplete application filed with the Zoning Administrator or his designated agent shall be returned to the applicant. However, another filing fee shall not be required upon re-submission of a prior incomplete application.

3.12 Duties of Planning Commission

The Planning Commission shall consider the application at a Public Hearing within thirty (30) days after receipt of the application from the Zoning

Administrator or his designated agent, unless further time is agreed upon by the parties concerned. The Planning Commission shall approve, deny or require modification of proposed major construction, and in doing so, shall consider the following criteria:

- A) The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site.
- B) The impact such construction would have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create.
- C) Compliance with the requirements of this Ordinance.
- D) Compliance with the Village of Douglas Zoning Ordinance.
- E) Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

3.13 Notice of Hearing:

The Zoning Administrator or his designated agent shall have published a notice of the date, time and place of the public hearing to consider the application and receive objections, and such notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction. The notice shall be published at least one (1) time in a newspaper of general circulation in the Village of Douglas, not less than ten (10) days or more than fifteen (15) days before the date set for the public hearing.

3.14 Denial of Permit:

If the Planning Commission shall deny the application for permit, they shall state their reasons therefore.

3.15 Modification:

The Planning Commission shall have the right to require modifications of the proposed major construction plan as submitted in the application, and may issue a permit conditional on the applicants' acceptance of the modifications as determined by the Planning Commission.

3.16 Assistance of Building Inspector or Engineer:

Before approval of the application, the Planning Commission may request the opinion of the Village Building Inspector or such licensed engineer as it may designate regarding the proposed major construction. If such an opinion is desired by the Planning Commission, it may delay a decision on the application submitted pursuant to this Article for a period of not more than thirty (30) days from the date of the public hearing.

## ARTICLE IV

### MINOR CONSTRUCTION

#### 4.0 Permit:

Prior to the commencement of the minor waterfront construction as hereinafter defined, a permit shall be obtained from the Village of Douglas in accordance with the procedures of this Article.

#### 4.1 Minor Construction Defined:

Construction of bulkheads, pier/docks, mooring buoys, boat hoists or other structures extending into or located on the waters of the Kalamazoo River or the Kalamazoo Lake where the purpose is for the private use of such facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club. The purpose of this classification is to permit relatively inexpensive construction of any pier or dock, not longer than forty five (45) feet, at any one parcel of land. Construction is limited in magnitude to that which might be done personally by the owner.

#### 4.2 Pier/Dock Construction:

Piers/docks constructed pursuant to this Article shall not extend outboard more than forty five (45) feet from the bulkhead or shoreline, the length of which shall be measured from the bulkhead, or at a location on the bottom of the high water datum (579.8'). All piers/docks shall be substantially constructed and meet generally accepted construction standards. Piers/docks shall normally be of straight form and perpendicular to the bulkhead or shoreline. Finger piers shall not be permitted.

#### 4.3 Number of Piers/Docks:

Only one (1) pier/dock shall be allowed for all lots or parcels.

#### 4.4 Bulkheads:

Bulkheads may be required at the discretion of the Zoning Administrator or his designated agent depending on the conformation of the shore area and its contemplated use, and if necessary, to prevent erosion of the shore line by wave action, or to prevent pollution by material from the shore caused by local conditions. Construction and location, if required, shall be in accordance with Section 3.4 of this Ordinance.

#### 4.5 Backfill and Dredging:

Backfill and Dredging in minor construction projects shall be controlled the same as set forth in Section 3.6 of this Ordinance.

4.6 Boat Hoists:

Boat hoists shall be permitted for seasonal use. A boat hoist may be installed in place of a pier/dock or at the end of a pier/dock, but in such case shall not extend not more than forty five (45) feet from the bulkhead or ordinary high water mark (579.8'). One (1) boat hoist per parcel or lot shall be permitted.

4.7 Mooring Buoys:

A single mooring buoy may be directly located off the shore or bulkhead, however, it must meet USCG design standards and lighting requirements for bouy and boat. One (1) single mooring buoy shall be permitted per parcel or lot.

4.8 Permit Procédure:

An application for a minor construction permit shall be filed with the Zoning Administrator or his designated agent. The application form shall be available at the Village of Douglas Clerk's office and shall require the same information as set forth in Section 3.9 of this Ordinance.

4.9 Processing of Application:

The Zoning Administrator, or his designated agent, shall review the application within then (10) days from the date of filing the application with the Zoning Administrator or his designated agent. If the Zoning Administrator, or his designated agent, determines that the proposed construction is, in fact, Minor Construction as defined in this Ordinance, and that the proposed minor construction otherwise complies with the requirements of this Ordinance, he shall issue a permit to the applicant. If the Zoning Administrator, or his designated agent, determines that the proposed minor construction does not comply with this Ordinance, he shall not issue the permit until the proposed minor construction is modified accordingly. If the Zoning Administrator, or his designated agent, finds that the proposed Minor Construction is Major Construction as defined in Article III of this Ordinance, he shall refer the same to the Planning Commission which shall act on the application in accordance with Article III of this Ordinance.

4.10 Public Hearing:

It is the intent of this Ordinance to provide for speedy processing of minor construction permits. No public hearing before the Planning Commission shall be required for all construction which constitutes Minor Construction as defined in Section 4.1 of this Article.

4.11 Filing Fees:

A filing fee as determined by the Village of Douglas Village Council and set forth in its Schedule of Fees shall accompany each application.

ARTICLE V  
ADMINISTRATION AND ENFORCEMENT

5.0 Enforcement:

The Zoning Administrator, or his designated agent, shall administer and enforce this Ordinance, and shall have the right to enter and inspect periodically all major and minor construction sites during the process of the work and shall inspect said construction at least once upon completion of the work to insure compliance with this Ordinance.

5.1 Revocation of Permit:

The Zoning Administrator, or his designated agent, shall have the authority to revoke any permit issued pursuant to this Ordinance, if the requirements of the permit and the provisions of this Ordinance are being violated, and in such case shall have the power to issue a Stop Work Order.

5.2 Assistance of Building Inspector or Engineer:

The Zoning Administrator, or his designated agent, may seek the advice and assistance of the Village Building Inspector or such licensed engineer as he may designate if he feels it necessary to assure compliance with this Ordinance, and the building inspector and/or licensed engineer shall render such assistance when requested to do so.

## ARTICLE VI

### UNSAFE STRUCTURES

#### 6.0 Use:

No owner or occupant of premises on which a pier/dock, bulkhead, boat hoist, mooring buoy or other such waterfront structure has deteriorated or fallen into disrepair or has been damaged by fire, ice or other casualty, shall permit the use thereof, and such owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition, and until removed or placed in a safe and sound condition, shall post a warning notice and block access thereto.

#### 6.1 Removal of Structures:

Any dilapidated or dangerous waterfront structure constructed pursuant to this Ordinance along the waterfront of the Village of Douglas, shall constitute a public nuisance and shall be removed or repaired within thirty (30) days after notice of such condition has been given to the owner of the property involved.

#### 6.2 Notice:

If such a dilapidated or dangerous waterfront structure exists, the Zoning Administrator, or his designated agent, shall send a notice of such condition to the owner of the premises as is disclosed by the last tax roll of the Village of Douglas at such address as is shown thereon, by certified mail. Such notice shall require that the dangerous structure be removed or repaired. Any person who fails, refuses or neglects to repair or remove such a dangerous or dilapidated structure within the time limits above provided for, shall be guilty of a misdemeanor and subject to prosecution and penalty as provided for in Article VII of this Ordinance.

## ARTICLE VII

### REMEDIES AND PENALTIES

#### 7.0 Violation:

Any construction along or abutting upon or extending into the waters of the Kalamazoo River or Kalamazoo Lake in violation of this Ordinance is hereby declared to be a nuisance per se. Any person or persons who shall violate or refuse to comply with the provisions of this Ordinance, or fail to obey any lawful order of the Zoning Administrator, or his designated agent or Planning Commission in the enforcement of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed one hundred (100) dollars or imprisonment not to exceed ninety (90) days. The Zoning Administrator, or his designated agent, or the Village of Douglas Planning Commission or the Douglas Village Council is authorized and empowered to make a complaint before a court of competent jurisdiction when in his/their opinion the provisions of this Ordinance have been violated.

#### 7.1 Other Relief:

The Douglas Village Council or the owners of real property affected, may institute injunction, mandamus, abatement or any other appropriate legal action or proceedings to prevent, enjoin, abate or remove any structure constructed and maintained in violation of this Ordinance.

#### 7.2 Continuing Violation:

Each day of violation of this Ordinance shall be considered a separate offense.

ARTICLE VIII

APPEALS

8.0 Appeals:

Any person aggrieved by any order, decision, requirement or ruling by the Zoning Administrator, or his designated agent, or the Planning Commission under this Ordinance may take an appeal directly to the Circuit Court.

ARTICLE IX

MISCELLANEOUS PROVISIONS

9.0 Repeal of Conflicting Ordinances:

Should any other Ordinances or sections thereof of the Village of Douglas Ordinance Code enacted prior to the date of this Ordinance, be in conflict with any provisions of this Ordinance, this Ordinance shall control.

9.1 Validity:

This Ordinance and the various parts thereof are hereby declared to be severable. If any part or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be effected thereby and shall remain in full force and effect.

9.2 Other Agency Permits:

The issuance of a permit pursuant to this Ordinance shall not relieve the applicant from obtaining any required permit and/or approval from the Department of Army Corps of Engineers, the Michigan Department of Natural Resources, or other such federal or state regulatory agency when required by federal or state law. The obtaining of a permit or approval from the Department of Army Corps of Engineers, Michigan Department of Natural Resources or other federal or state agency shall not relieve the applicant from complying fully with this Ordinance, and obtaining a permit pursuant to its provisions.

9.3 Effective Date:

This Ordinance shall take effect twenty (20) days from the date of its adoption.

ADOPTED, this 4th day of February, 1985.



Lester Pearson  
Douglas Village President



Debra Bussies  
Douglas Village Clerk

APPLICATION FOR WATERFRONT CONSTRUCTION

VILLAGE OF DOUGLAS, MICHIGAN ORDINANCE NO. 101

All waterfront construction, both minor or major, requires permits issued by the Village of Douglas and jointly by the Corps of Engineers, USA and the Department of Natural Resources, State of Michigan. Two applications are required: this one and the attached joint application for the Corps of Engineers and the DNR. Both completed forms must be submitted to the Zoning Administrator or his/her designated agent. A second Corps of Engineers/DNR application should be sent to:

Department of Natural Resources  
Land Resources  
Box 30028  
Lansing, Michigan 48909

Date \_\_\_\_\_  
Name of Applicant \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_  
Location of proposed construction \_\_\_\_\_

The Applicant believes the construction is: Minor ( ) Major ( )  
Brief description of construction \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is this work or construction required for:  
Public Marina ( ) Private Club or Marina ( )  
Condominium ( ) Private Use by Property Owner ( )  
Other ( ) Explain: \_\_\_\_\_  
Docking space or slips for how many boats will be provided \_\_\_\_\_  
Will adequate off street parking be provided? \_\_\_\_\_  
Does the Applicant have legal authority to use this property? \_\_\_\_\_  
\_\_\_\_\_

WATERFRONT CONSTRUCTION APPLICATION, VILLAGE OF DOUGLAS

If this construction is not limited to the waters of the Kalamazoo River or its waters edge, has a permit then been requested as required by the Zoning Ordinance of the Village?

Are plans for this construction in appropriate form attached to this application? \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

Do not write below this line, official comments only.

\*\*\*\*\*

Action by Zoning Administrator

Date \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Zoning Administrator

\*\*\*\*\*

Action by Planning Commission

Date \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Secretary

\*\*\*\*\*

Record of filing fee by Village Clerk in this space.

I, Debra Bussies, being the Clerk of the Village Board of the Village of Douglas, Allegan County, Michigan, do hereby certify that the foregoing Douglas Village Ordinance Number 101 was adopted at a regular meeting of the Douglas Village Board held in the Douglas Village Hall, northwest corner of Center and Union Streets, Douglas, Michigan on the 4th day of February, A.D., 1985 by yeas and nays as follows:

Board Members Voting Yea: McVea, Stevenson, McDoanld, Pearson, Matteson, Johnson, Baker

Board Members Voting Nay: none

Board Members Abstaining: none

Board Members Absent: none

Debra Bussies  
Clerk, Village of Douglas

I further certify that said Ordinance has been recorded in the Ordinance Book of the Village, and that such recording has been authenticated by the signatures of the President and Village Clerk.

Debra Bussies  
Clerk, Village of Douglas

I further certify that Ordinance Number 101, was duly published in the Commercial Record, on the date of February 14 1985, the aforementioned being a general circulation newspaper in the Village of Douglas.

Debra Bussies  
Clerk, Village of Douglas

RESOLUTION  
VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN

WHEREAS, Ordinance No. 101, of the Village of Douglas Ordinances provides in Section III (3.10) that the Village Council shall establish application filing fees for major waterfront construction, and in Section IV (4.11) that the Village Council shall establish application filing fees for minor waterfront construction, required under Ordinance No. 93 by Resolution; now, therefore, Be It Resolved as Follows:

1. That pursuant to Section III (3.10), the application fee to be assessed each person applying for a permit for major waterfront construction from the effective date hereof shall be \$250.00.
2. That pursuant to Section IV (4.11), the application fee to be assessed each person applying for a permit for minor waterfront construction from the effective date hereof shall be \$25.00.
3. This Resolution shall be effective as of the effective date of Ordinance No. 101.

THIS RESOLUTION PASSED ON THE 4th DAY OF FEBRUARY, 1985

  
\_\_\_\_\_  
Debra L. Bussies, Village Clerk

Moved By: Johnson/McDonald  
Motion: Carried Unanimously

ORDINANCE NO. 101A  
VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE WATERFRONT CONSTRUCTION  
ORDINANCE (#101) FOR THE VILLAGE OF DOUGLAS,  
ALLEGAN COUNTY, MICHIGAN.

1. Intent: It is the intent of this Ordinance to adopt the revisions listed below and to fully incorporate them into the text of Ordinance No. 101, as to allow a complete and easily understood Ordinance.

THE VILLAGE OF DOUGLAS ORDAINS:

1. That the following sections be amended to read:

(a) 1.1 Purpose: The purpose of this Ordinance is to establish requirements and procedures for the construction and location of pier/docks, pilings, bulkheads and mooring bouys in and immediately adjacent to the waters of the Kalamazoo River, Kalamazoo Lake, and Lake Michigan, within the Village of Douglas; to regulate dredging and backfill below the ordinary high-water mark; to provide for administration and enforcement of this Ordinance; to provide for penalties for violation of this Ordinance and to all Ordinances which are in conflict with this Ordinance.

(a) 1.2 Objectives: The objective of this Ordinance is to assure minimal disturbance of the natural ecology; to assure minimal interference with the Kalamazoo River, Kalamazoo Lake, and Lake Michigan, for recreational purposes such as small boat sailing and racing, canoeing and fishing; to prevent interference with riparian rights of other property owners, and to promote the public health, safety, and general welfare.

(b) 2.0 Bulkhead: Delete: "A bulkhead may constitute a pier, dock, or quay for mooring craft".

(b) 2.1 Boat Hoist: Change to:

(b) 2.1 Boat Lift: A mechanism or apparatus used to raise up and hold a boat out of the water, not to exceed five thousand (5,000) pounds in capacity.

(b) 2.9 Ordinary High-Water Mark: Considered to be within and up to, two (2) feet of the ordinary mark as established on June 1st

of the current year or June 1st of the previous year, whichever is applicable, and/or at the discretion of the Village Planning Commission.

(b) 2.10 Piers: A platform extending perpendicular from the shore over water and supported by piles, pillars, or columns, used to secure and protect watercraft. The terms "pier" and "dock" as used in this Ordinance shall be synonymous.

(b) 2.13 Zoning Administrator: That person/persons appointed by the Village Council pursuant to the Village Zoning Ordinance to administer the Village Zoning Ordinance and this Ordinance.

(c) 3.1 Major Construction Defined: ~~The construction,~~ reconstruction, repair, or replacement of bulkheads, docks, piers, boat lifts; or other structures or a condominium extending into or located on the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan where the purpose is to rent, lease or otherwise make available to the general public, space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment. Major construction shall also include any pier/dock whether for commercial or private use, which extends into the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan which exceeds forty five (45) feet in length. A major construction permit shall always be required for waterfront construction in connection with the establishment of a private or commercial marina where permitted under the Village of Douglas Zoning Ordinance.

(c) 3.2 Compliance with Zoning Ordinance: All major waterfront construction shall be subject to site plan review (see chapter XV, Douglas Village Zoning Ordinance.)

(c) 3.3 Pier/Dock Construction: Delete: "or at a location on the bottom of high-water datum (579.8')".

(c) 3.6 Backfill and Dredging: Backfill and dredging, if to be performed in connection with major construction must be specified in requests for all permits as to: (a) need, (b) location, (c) quality, (d) disposition of spoil. Only clean backfill may be used.

(c) 3.12 Duties of Planning Commission: The Planning Commission shall consider the application within thirty (30) days after receipt of the application from the Zoning Administrator and then schedule a public hearing unless further time is agreed upon by

the parties concerned. The Planning Commission shall approve, deny or require modification of proposed major construction, and in doing so, shall consider the following criteria:

- a. The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site.
- b. The impact such construction would have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create.
- c. Compliance with the requirements of this Ordinance.
- d. Compliance with the Village of Douglas Zoning Ordinance, including site plan review.
- e. Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

(c) 3.13 Notice of Hearing: The Zoning Administrator or his/her designated agent shall have published a notice of the date, time, and place of the public hearing to consider the application and receive objections, and such notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction. The notice shall be published at least one (1) time in a newspaper of general circulation in the Village of Douglas, not less than ten (10) days before the date set for the public hearing. In addition, notice shall be sent to all property owners within three hundred (300) feet.

(c) 3.15 Modification: The Planning Commission shall have the right to require modifications of the proposed major construction plan as submitted in the application, and may issue a permit conditional on the applicants' acceptance of the modifications as determined by the Planning Commission. No final approval or occupancy permits shall be issued until these conditions are met.

(d) 4.1 Minor Construction Defined: Construction of bulkheads, piers/docks, mooring buoys, boat lifts or other structures extending into or located on the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan, where the purpose is for the private use of such facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club. The purpose of this classification is to permit construction of any dock, pier

or wharf not longer than forty five (45) feet, on any one parcel of land.

(d) 4.3 Number of Piers/Docks: Only one pier or dock shall be allowed per lot or parcel.

(d) 4.6 Boat Hoists: Change to:

(d) 4.6 Boat Lifts: Boat lifts shall be permitted for seasonal use. A boat lift may be installed in place of a pier/dock or at the end of a pier/dock, but in such case shall extend not more than forty five (45) feet from the bulkhead or shoreline. One (1) boat lift per parcel or lot shall be permitted.

(d) 4.8 Permit Procedure: An application for a minor construction permit shall be filed with the Zoning Administrator or his/her designated agent. The application form shall be available at the Douglas Village Office and shall require the same information as set forth in Section 3.9 of this Ordinance. Upon receipt of the application adjacent property owners shall be notified and have the opportunity to respond within eight (8) days.

(e) 5.0 Enforcement: The Zoning Administrator, or his/her designated agent, shall administer and enforce this Ordinance, and shall have the right to enter and inspect periodically all major and minor construction sites during the process of the work and shall inspect construction upon completion of the work to insure compliance with this Ordinance, before issuing an occupancy permit.

(f) 7.0 Violation: Any construction along or abutting upon or extending into the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan, in violation of this Ordinance is hereby declared to be a nuisance per se. Any person or persons who shall violate or refuse to comply with the provisions of this Ordinance, or fail to obey any lawful order of the Zoning Administrator, or his/her designated agent or Planning Commission in the enforcement of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed one hundred (100) dollars or imprisonment not to exceed ninety (90) days. The Zoning Administrator, or his/her designated agent, or the Village of Douglas Planning Commission or the Douglas Village Council is authorized and empowered to make a complaint before a court of competent jurisdiction when in his/her/their opinion the provisions of this Ordinance have been violated.

(g) 9.2 Other Agency Permits: Prior to the issuance of a permit by the Village of Douglas to an applicant, he/she shall first apply and seek approval from the Army Corps of Engineers, The Department of Natural Resources of the State of Michigan, and such other federal and state regulatory agencies when required by federal and state laws. The applicant will submit copies of these permits and approvals with his/her application to the Village of Douglas for approval. The obtaining of a permit from the Army Corps of Engineers or any other federal or state agency shall not relieve the applicant from complying fully with this Ordinance, and obtaining a permit pursuant to its provision.

2. That the following sections be added:

(a) 2.14 Non-Conforming Structure: Any boat lift, bulkhead, dock, finger-pier, pier, wharf, or other structure that is because of width, length, location, live-load capabilities, etc., not in conformance with the regulations contained in this Ordinance.

(a) 2.15 Wharf: A platform or other flat structure extending shoreward of a bulkhead running parallel with the shoreline.

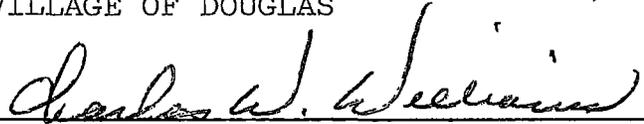
(b) 3.9 Permit Procedures:

o. Copies or evidence of Corps of Engineers and Department of Natural Resources permits.

3. Effective Date: This Ordinance shall take effect twenty (20) days from the date of its' adoption.

ADOPTED THIS 3rd DAY OF August, 1987

VILLAGE OF DOUGLAS



Charles W. Williams  
President



Debra L. Bussies  
Clerk/Treasurer

**VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 101-B**

**AN AMENDMENT TO THE ORDINANCE CODE OF THE VILLAGE OF  
DOUGLAS MICHIGAN.**

THE VILLAGE OF DOUGLAS ORDAINS:

Chapter 62 of the Ordinance Code of the Village of Douglas is hereby amended by amending Sections 62-51, 62-53, and 62-54 as follows:

Section 62-51. Definitions. The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Major construction" shall mean the construction, reconstruction, repair, or replacement of bulkheads, docks, piers, boat lifts, or other structures, or a condominium extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease, or otherwise make available to the general public, space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment. Major construction shall also include any pier/dock whether for commercial or private use, which extends into the waters of the Kalamazoo River or Kalamazoo Lake which extends forty-five (45) feet or more in length. A major construction permit shall always be required for waterfront construction in connection with the establishment of a private or commercial marina where permitted under the Village of Douglas Zoning Ordinance.

Section 62-53 Site Plan Review (Compliance with Zoning Ordinance.

All major waterfront construction shall be subject to site plan review (see Chapter XV, Douglas Village Zoning Ordinance).

Section 62-54 Pier / Dock Construction.

Piers/Docks constructed pursuant to this Article shall not extend outboard more than one hundred (100) feet from the bulkhead for private use, or not more than 600 feet for commercial/marina use. In no instance shall a pier or dock for marina use extend beyond the pierhead line. The main pier extending perpendicular from the shoreline shall have a minimum width of four (4) feet. Finger piers extending from the main pier shall not exceed forty (40) feet in length, and shall have a minimum width of three (3) feet. Piers/docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact on adjacent properties and environments. All piers/docks shall be located so as not to infringe on the riparian rights of other property owners. The Village may request documentation to establish the riparian right lines and

ownership of a property owner. Pier/dock construction must be substantial and the design and materials must be consistent with established construction standards as required by the State of Michigan Construction Code. All pier/docks constructed under a major construction permit shall have the capability to carry a live load of one hundred (100) pounds per square foot and shall have located thereon adequate lighting in areas available for public use in period of darkness.

With the exception of the changes and amendments indicated above, all other sections of Chapter 62 of the Ordinance Code of the Village of Douglas shall remain unchanged.

Ordinance Adoption Date: 10-7-02

Ordinance Effective Date: 11-1-02



\_\_\_\_\_  
President



\_\_\_\_\_  
Clerk/Treasurer