

## **ARTICLE 2**

### **ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 201        ADMINISTRATION**

- A. It is the intent and purpose of this Article to provide the procedures for the administration of the Fulton Township Zoning Ordinance (“Ordinance”), including, but not limited to, the issuance of zoning permits, collection of fees and performance guarantees, public notice, and enforcement.
- B. The administration and enforcement of this Ordinance shall be the responsibility of the Fulton Township Board (“Board”) and the Fulton Township Planning Commission (“Planning Commission”). The Board shall have the right to delegate responsibility for enforcement to appropriate officers, employees or contractors.
- C. The person administering and enforcing this Ordinance shall be known as the Zoning Administrator. That person may be an employee of the Township, a contractor for the Township, or an employee or contractor of an entity retained by the Township for such purposes of administration and enforcement. The Zoning Administrator shall have the power of a police officer whose jurisdiction is the enforcement of this Ordinance. In the absence of a Zoning Administrator, the Township Supervisor or other Township officer as designated by the Board shall assume all the powers and duties of the Zoning Administrator.

#### **SECTION 202        ACTING IN OFFICIAL CAPACITY**

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

**SECTION 203            DUTIES OF THE ZONING ADMINISTRATOR**

- A.     It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform the following duties:
1.     The Zoning Administrator is responsible for reviewing and approving zoning permits. All applications for zoning permit shall be submitted to the Zoning Administrator.
  2.     Upon receipt of a complete application, the Zoning Administrator shall have ten (10) business days in which to issue a zoning permit if all applicable provisions of this Ordinance have been complied with or deny if proposed improvements are not in compliance with the Ordinance.
  3.     The Zoning Administrator shall maintain files of all applications for zoning permit and shall keep record of all permits issued.
  4.     The Zoning Administrator shall receive and process all applications where the Board, Planning Commission or Fulton Township Zoning Board of Appeals (“ZBA”) is required to act or decide under this Ordinance.
  5.     The Zoning Administrator shall be empowered to make inspections of structures or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator may seek a search warrant to make an inspection to determine compliance with this Ordinance.
  6.     The Zoning Administrator shall be empowered to issue appearance summons, seek the issuance of warrants for the arrest of alleged violators through proper legal action and bring civil or criminal action in the name of the Township against violators of the regulations and provisions of this Ordinance.
  7.     The Zoning Administrator shall equally apply the regulations in this Ordinance to all property owners. Enforcement actions may be initiated by a complaint, or by the Zoning Administrator upon identification and verification of a violation with or without complaint.
  8.     The Zoning Administrator shall keep a record of complaints of violation of any of the provision of this Ordinance and of the action taken to address each complaint.
  9.     The Zoning Administrator shall report to the Board periodically (but not to exceed one (1) year) and provide a report summarizing zoning permits issued and action taking concerning violations of the Ordinance.

**SECTION 204            DUTIES OF THE PLANNING COMMISSION**

- A.    As a group of individuals appointed by the Board, it shall be the responsibility of the Planning Commission to perform the following duties:
  - 1.    Recommend and adopt rules and guidelines for the proper administration and enforcement of the Ordinance.
  - 2.    Conduct public hearings for issues requiring public hearing before the Planning Commission, review and approve site plans as prescribed in the Ordinance, and review all proposed requests for special land use and/or amendments to the Ordinance for compliance with requirements of the Ordinance and recommend appropriate action to the Board for approval, disapproval or modification.
  - 3.    Act as a policy board on matters of enforcement and administration of the Ordinance not covered by adopted rules or guidelines, including opening for review the Fulton Township Master Plan (“Master Plan”) every five (5) years and draft changes, if deemed necessary, for consideration at public hearing.

**SECTION 205            ZONING PERMIT PROCEDURES**

- A.    It is the intent and purpose of this section to create a review and permit process for the administration of this Ordinance. Such review and permitting process shall involve a written application for proposed use and/or improvement and written documentation that such proposed use and/or improvement is in compliance with the Ordinance and therefore permitted.
  - 1.    The excavation for any structure shall not be commenced; the erection of, addition to, alteration of, or moving of any structure shall not be undertaken; or any land shall not be used, a previous use of land re-instituted; or any existing land use expanded or changed to a different type or class; or the use or occupancy of any structure or premises, or part thereof, hereafter shall not be undertaken without the issuance of the proper and appropriate zoning permit.
  - 2.    A zoning permit shall not be issued for those uses requiring special land use approval until a special land use has been approved in compliance with the provisions of this Ordinance.
  - 3.    Except upon written order of the Board of Appeals no such permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.
  - 4.    Improvements and structures utilized in the commercial production of agricultural products protected under the Michigan Right-To-Farm Act

(“MRTFA”) that are not required to obtain a building permit under the State Construction Code are required to obtain a zoning permit.

- B. There shall be submitted to the Zoning Administrator an application for zoning permit. An application for zoning permit is subject to the following:
1. Proof of ownership/equitable title shall be required with any application for a zoning permit in order to establish interest in property and right to proceed.
  2. An application for a zoning permit gives consent for the Zoning Administrator and/or their assigns, to enter and/or access property for proper inspection prior to issuing permit.
  3. All fees for inspection and the issuance of a zoning permit required under this Ordinance shall be collected by the Zoning Administrator in advance of issuance of the zoning permit. The amount of such fees shall be established by resolution of the Board and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
  4. All applications for zoning permit shall require an accurate scale map showing the following:
    - a. The location, shape, area, dimensions, legal descriptions of the parcel, deed restrictions, location of easements, center line of street and street right-of-way (or easement).
    - b. The location, setbacks, dimensions, height of the existing and/or proposed structures to be erected, altered or moved on the parcel.
    - c. The existing and intended use of structure(s) and property.
    - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
    - e. Any change to the contour of the parcel involved.
    - f. Identify surface water and waterways.
    - g. Any application where the above information is not provided or is illegible shall be returned to the applicant for revision.
  5. The applicant’s request for zoning permit must comply with the provisions and regulations of this Ordinance, as well as meet the rules and regulations set forth by other agencies and department. The Zoning Administrator may withhold any approval of zoning permit pending verification that an applicant has received required local, county, state or federal permits.

- a. In the case of a zoning permit for a dwelling or other building intended for human occupancy, evidence shall be provided that potable water and sanitary sewage is approved by the agency responsible for such matters.

C. Expiration and Revocation of Zoning Permit

1. Any permit granted under this section shall become null and void unless development proposed shall have its first building or trades inspection within one-hundred and eighty (180) days from the granting of a zoning permit.
2. The Zoning Administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with any provisions of this Ordinance or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing.

**SECTION 206 PUBLIC NOTICE**

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

- c. Indication of when and where the request will be considered by providing the date, time and location of the public hearing.
  - d. Inclusion of a statement describing when and where written comments will be received concerning the request. Also, public notices shall indicate that the public may appear at the public hearing in person, by counsel, or by personal representative.
  - e. Information concerning handicap and barrier-free access accommodations, if applicable.
2. Public notice shall be published in a newspaper of general circulation in the Township not less than fifteen (15) days before the date the subject of the public notice will be heard and considered for approval.
3. When the provisions of this Ordinance or the Zoning Act require that personal or mailed notice be provided, notice shall be provided to:
- a. The owner(s) of the property and the applicant, where applicable.
  - b. Except for rezoning requests involving eleven (11) or more adjacent properties comprising one (1) petition or is a matter before the Board of Appeals that does not involve a specific property (e.g. interpretation or appeal of administrative decision), notice shall be provided to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request and to the occupants of all structures within three hundred (300) feet of property regardless of whether the property or occupant is within the zoning jurisdiction boundaries of the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - c. All persons, organizations, entities and agencies having requested to receive notice pursuant to the to Section 206.C.
  - d. Such notice shall be provided not less than fifteen (15) days before the date the subject of the public notice will be heard and considered for approval.

C. Registration to Receive Notice by Mail.

- 1. Any neighborhood organization, public utility company, railroad, or any other person may register with the Township Clerk to receive written notice of all applications for approval, or written notice of all applications for development approval within the zoning district in which they are located.

2. The requesting party must provide the Township Clerk information on an official form to ensure proper notification can be made. Fees, as established by the Board, may be assessed for the provision of this notice.

## **SECTION 207 ENFORCEMENT, VIOLATIONS AND PENALTIES**

- A. Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit or other approval granted hereunder, or any lawful order or decision of the building official, Zoning Administrator, Zoning Board of Appeals, or the Township Board issued pursuant to this Ordinance shall be in violation of this Ordinance. Any such violation is declared to be a nuisance per se.
- B. The Township may seek injunctive relief against persons alleged to be in violation of this Ordinance, and any such other relief as may be provided by law.

## **SECTION 208 REVIEW FEES AND PERFORMANCE GUARANTEES**

- A. Review fees shall be established for application, permit and development review for proposed improvements requiring review under this Ordinance. The amount of such fees shall be established by resolution of the Board and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
  1. Fees for review of development proposals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Township Clerk in advance of processing any application or issuance of any permit.
  2. Such fees may include, but are not limited to, all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission, Board and/or Board of Appeals time, mileage and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected in escrow with any unexpanded balance returned to an applicant upon completion of the approval process.
    - a. For any application for approval of a site plan, special land use, Planned Unit Development or other use or activity requiring a permit under this Ordinance, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant.

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



Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the Board.

- d. The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
- e. When all or portions of the required improvements have been completed, the obligor shall send written notice to the Township Clerk. Upon provided notice, the Zoning Administrator, or assigns, shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and Board indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections.
- f. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

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