

Article 21 Administration and Enforcement

7.21.01 Purpose

It is the intent of this article to establish the roles and responsibilities of those involved in administration of this zoning ordinance, to provide for issuance of zoning permits, to establish rules for enforcement of this ordinance and to establish penalties for its violation.

7.21.02 Responsibilities in Zoning Ordinance Enforcement

The provisions of this Ordinance shall be administered by Planning Department. The Planning Department may delegate its responsibilities for administration or enforcement with the approval of the City Commission. The table below outlines the other roles and responsibilities of the Planning Department, Planning Commission, Zoning Board of Appeals (ZBA), City Commission and City Clerk under this ordinance.

Table 7.21.1: Administration and Enforcement Authority

Planning Department	
Primary responsibility for administration of this ordinance	
Interpret the ordinance as needed to enforce the zoning ordinance	
Provide citizens and public officials with information relative to the ordinance.	
Zoning Compliance	Review and approve zoning permits, change of use or for any improvements other than for single family dwellings and accessory structures on existing lots
	Determine if a use not specifically defined is similar to another permitted use (Section 7.02.08)
	Conduct inspections for zoning compliance
Accept applications for site plans, Special Land Use requests, rezonings, text amendments, variances, appeals of administrative decisions and interpretations	
Site Plan Review (per Article 7.18)	Review site plans for compliance, determine type of review required, and forward to staff and Planning Commission as needed
	Maintain copies of approved site plans
	Review minor changes to site plan for approval
Special Land Use (per Article 7.19)	Conduct optional preliminary review of Special Land Use requests
	Review proposed amendments of Special Land Use requests and classify as major or minor
Nonconforming Lots, Uses, and Structures (per Article 7.20)	Review applications for Class A Nonconforming status
	Initiate revocation of Class A Nonconforming designation
	Prepare recommendation on change in nonconforming use
	Submit determination of abandonment to ZBA
Authority to grant extensions on parking lot completion requirement (Section 7.16.05)	
Authority to require performance guarantees (Section 7.21.06)	
Maintain record of ZBA interpretations (Section 7.22.05)	
Determine the precise location of boundary lines between districts	

Prepare recommendations on proposed rezoning and text amendments
Undertake other responsibilities as identified in this ordinance or delegated by the City Manager or City Commission.
Building Official
Review and approve applications for zoning permits for fences (Section 7.15.03)
Review and approve applications for zoning permits for signs (Section 7.17.01)
Require removal of unsafe signs (Table 7.17.2)
Review and approve zoning permits for single family dwellings and accessory structures on existing lots.
Conduct inspections for zoning compliance
Undertake other responsibilities as identified in this ordinance or delegated by the City Manager or City Commission
Planning Commission
Review and approve site plans, and major amendments to site plans
Hold public hearings for, review and approve Special Land Use requests, amendments and revocations
Hold public hearings and make recommendations on map and text amendments to zoning ordinance
Hold public hearings for, review and approve requests for Class A Nonconforming status
Approve change of nonconforming use to another nonconforming use
Consult with Planning Department on initial interpretation of zoning ordinance text and map
Grant exceptions to landscaping provisions (Section 7.15.02 (b)(2))
Zoning Board of Appeals
Review and decide requests for variances
Review and decide appeals of administrative decisions
Review request for interpretations from the Planning Department and Planning Commission or hear appeals of initial determinations by Planning Department and Planning Commission
Make determination of abandonment (Section 7.20.07)
City Commission
Approve appointment of ZBA members
Approve appointment of Planning Commission members
Establish fee schedule for permits and reviews
Approve text and map amendments to zoning ordinance
Initiate amendments to the zoning ordinance
City Clerk
Receive request from any utility, railroad, or airport that wishes notice of zoning amendments (Sec. 306(2) of PA 110).
Maintain file of zoning ordinance and all amendments (Sec. 401(7) of PA 110).
Receive petition to rescind zoning ordinance and determine adequacy of petition (Sec. 402(2) & (3) of PA 110).
Handle any performance guarantees deposited (Sec. 505(1) of PA 110).
Receive protest petition (Sec. 403(1) of PA 110).
Handle posting and mailing all public notices

7.21.03 Zoning Permits

(a) Permit Required

- (1) A zoning permit must be obtained from the Planning Department or Building Official as applicable before:
 - a. Any construction is undertaken,
 - b. Any structure is moved
 - c. A structure is moved on to any parcel
- (2) A zoning permit must be obtained from the Planning Department before any change in the use of any land or structure or change in occupancy is undertaken.
- (3) For use requiring site plan approval, that approval takes the place of a zoning permit. For structures or improvements that require a building permit, the zoning permit may be incorporated into the building permit, but structures such as fences or small accessory buildings that do not require a building permit still require a zoning permit.

(b) **Application.** A zoning permit shall be applied for in writing on an application form provided by the City. The application will include a plot plan of the subject parcel adequate to determine compliance with this ordinance.

(c) **Standards for Permit Issuance.** A zoning permit shall be issued by Planning Department or Building Official whenever the proposed use:

- (1) Complies with the provisions of this ordinance.
- (2) Any necessary Planning Commission, ZBA, City Commission, or other local, state or federal approvals have been obtained.
- (3) When a structure shall be moved, the site from which the structure has been moved shall be graded level and all debris shall be cleared away.

A permit shall not be refused when conditions imposed by this ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

(d) Approval Process

- (1) The Planning Department/Building Official shall make a decision within five (5) business days of receiving a complete zoning permit application.
- (2) The Planning Department/Building Official shall issue the zoning permit or a letter explaining the reason(s) for denial of the application.

- (3) A structure requiring a zoning permit shall not be issued a building permit until the zoning permit has been issued.
 - (4) The Planning Department/Building Official shall maintain a record of all zoning permit applications.
 - (5) The Planning Department/Building Official shall inspect the site prior to issuing final zoning approval. A building certificate of occupancy shall not be issued by the Building Official until compliance with the zoning permit has been verified by the Building Official. In the case of multi-unit structures such as shopping centers, zoning approval and certificate of occupancy may be granted on an individual unit basis, provided any project wide improvements such as parking lots or entrances have been completed in compliance with the ordinance.
- (e) **Expiration.** A zoning permit shall expire one (1) year after the date of issuance unless the applicant has been issued a building permit. For zoning permits that do not involve construction such as a permit approving the change in the use of a building, the permit shall expire one (1) year after the date of issuance unless the proposed use has been commenced within that period.
- (f) **Revocation of Permits.** Any zoning permit issued in error or pursuant to an application containing any false statements shall be void. The building official shall revoke a zoning permit for failure to comply with the terms of the permit.

7.21.04 Enforcement Procedures

- (a) **Reporting Violations.** The Planning Department shall enforce the provisions of this Ordinance. Any and all building or land use activities considered possible violations of the provisions of this Ordinance shall be communicated to the Planning Department. Variation or deficiencies from an approved site plan shall be considered a violation of this Ordinance. Commencement of an investigation into a violation is based upon a complaint received verbally or in writing. Violations reported to the Planning Department and/or their assigns shall be subject to the enforcement procedures below.
- (b) **Inspection and Enforcement Procedure.** If the Planning Department receives a complaint or identifies a potential violation, the following procedures shall be followed.
- (1) **Inspection of Violation.** The Planning Department, Building Official, or ordinance enforcement officer as appropriate shall inspect each alleged violation of this ordinance within ten (10) working days of receipt of a complaint.
 - (2) **Correction Period, Requirements of Notice.** If a violation is determined to have occurred, a notice of the violation shall be sent in writing by Certified Mail addressed to the owner and/or occupant of the property where the violation exists. If the occupant or owner of the premises is unknown or cannot be located, notices shall be given by posting a copy of said notice upon a conspicuous part of the property

where the nuisance is identified as being located and by mailing a copy of said notice by Certified and First Class Mail, addressed to the owner or party of interest at the address shown on the current tax records. The notice shall specify the location and nature of the violation and shall indicate that the owner, occupant or person otherwise responsible, is required to abate the violation within twenty one (21) days. The time frame may be increased to a maximum of sixty (60) days. The notice will advise the applicant's right to appeal the administrative decision within twenty one (21) days of the date of the letter. For projects under construction, the Planning Department may issue a stop-work order if the violation requires such, or if the violation has been previously noticed and has not been remedied.

- (3) **Non-Compliance with Order.** A violation not corrected within the specified time shall be referred to the city attorney. The city attorney may undertake enforcement using the remedies outlined in *Section 7. 21.08* below.
- (4) The Planning Department/Building Official may refuse to issue new zoning permits to a person who has failed to correct violations or to any person representing a firm, which has failed to correct violations of this ordinance. A zoning permit may also be withheld if violations are identified on site upon application.

7.21.05 Fees

The City Commission shall set all fees for permits and reviews required under this ordinance. The fees will be set by resolution. The City Commission may revise the fees from time to time as they determine necessary. The City Commission may also establish procedures for establishing escrow fees to cover the cost of review of applications.

7.21.06 Performance Guarantees

A performance guarantee may be required to ensure compliance with any conditions imposed as part of zoning approval. The guarantee shall be in a form acceptable to the city such as a cash deposit, certified check, irrevocable bank letter of credit or surety bond.

- (a) **Calculation of Guarantee.** The guarantee shall equal one hundred and ten percent (110%) of the value of the improvement as calculated by the City or its consultants. The guarantee shall include a schedule of costs assigned to the different improvements. If multiple guarantees are required for the same project, each will be treated separately.
- (b) **Deposit of Guarantee.** The guarantee shall be deposited with the City prior to authorization for the work to proceed.
- (c) **Release of Funds.** Monies may be released by the City to the applicant in proportion to work completed on the different elements after inspection of work and approval of the Planning Department. Any partial release of funds shall be less than ten (10) percent which shall be retained by the city until all work has been completed and subsequently inspected and approved by the Building Official and Planning Department.

- (d) **Delay in Improvements.** In instances where all improvements, as required in this section, are not completed, and a temporary certificate of occupancy is requested, the estimated cost of the remaining improvement shall be verified by the city, particularly with respect to any delay to another construction season. If the estimated cost has changed, then a revised guarantee, acceptable to the city, shall be filed with the clerk covering such improvements before a temporary certificate of occupancy is issued.

7.21.07 Public Hearings

Notice of public hearings required under this ordinance shall comply with the following requirements.

- (a) **Published Notice.** The city clerk shall give notice of the public hearing by publication of a notice in a newspaper of general circulation in the city at least 15 days before the date of the public hearing.
- (b) **Mailed Notice.** For hearings involving specific parcels of property, such as rezonings or variance requests, the city clerk shall give notice of the public hearing by mail or personal delivery to the owners of the property that is the subject of the public hearing, as well as to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the City of Lapeer. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice shall be mailed or personally delivered not less than fifteen (15) days before the hearing. The notice requirements of this paragraph do not apply to rezonings consisting of eleven (11) or more adjacent parcels.
- (c) **Notice to Adjacent Jurisdiction.** For hearings involving specific parcels of property, where the parcel is within three hundred (300) feet of the city boundary, the city shall mail a notice to the Planning Commission Chairperson of the adjacent municipality at least fifteen (15) days before the public hearing.
- (d) **Notice Content.** Notices required under the provisions of this section shall contain the following information
- (1) Describe the nature of the request.
 - (2) Where the request involves a specific parcel of property the notice will include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, the tax parcel ID of the property and description of its location shall be used.

- (3) State when and where a copy of the request can be viewed.
- (4) State when and where the request will be considered.
- (5) Indicate when and where written comments will be received concerning the request.

7.21.08 Violations

- (a) **Municipal Civil Infraction.** Any person, firm, corporation, or anyone acting on behalf of any person, firm, or corporation, who shall violate any of the provisions of this Ordinance, or who shall fail to comply with any of the required conditions of the ZBA or the Planning Commission shall be guilty of a municipal civil infraction as described in **City Ordinance No. ___**. For the purposes of **City Ordinance No. ___**, Planning Department staff shall be an authorized official.
- (b) **Nuisance Per Se.** Any building or structure which is used, erected, altered, razed, or converted or any use of any premises which is begun or changed and in violation of any provision of this ordinance, is hereby declared to be a nuisance per se.
- (c) **Restore or Replace.** In addition to the other remedies available under this ordinance, an individual, partnership, firm, corporation, organization, institution, or agency of government that violates this section may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, neglected, or demolished.
- (d) **Cumulative Rights and Remedies.** The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
- (e) **Other Remedies.** The City Commission may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies herein provided are civil in nature and in addition to criminal remedies.
- (f) **Compliance Required.** The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance.
- (g) **Stop Work Order.** Any person who shall continue any work in or about the structure or premises after having been served with a stop-work order, except such work as such person is directed by the Planning Department to perform in order to remove violations or unsafe conditions.
- (h) Each day a violation of the zoning ordinance continues shall be deemed a separate offense.