

## **ARTICLE XX ADMINISTRATION AND ENFORCEMENT**

### **SECTION 2000. ENFORCEMENT:**

The provisions of this Ordinance shall be administered and enforced by the Building Inspector, or by such deputies of his department as the Building Inspector may delegate to enforce the provisions of this Ordinance, who shall be appointed by the City Council for such term and subject to such conditions and at such rate of compensation as said Council shall determine. In the exercise of his duties, the Inspector shall have the right to enter private premises as provided by law.

### **SECTION 2001. DUTIES OF BUILDING INSPECTOR (ZONING ADMINISTRATOR):**

The Building Inspector shall have the power to grant Zoning Compliance and Occupancy Permits, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Inspector to approve any plans or issue any permits or Certificates of Occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance. The Building Inspector shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant.

### **SECTION 2002. PLOT PLAN:**

The Building Inspector shall require that all applications for Building Permits shall be accompanied by plans and specifications including a plot plan, in duplicate, drawn to scale showing the following:

1. The actual shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential in determining whether the provisions of this Ordinance are being observed.

### **SECTION 2003. PERMITS:**

The following shall apply in the issuance of any permit:

1. **Permits Not to be Issued:**  
No building permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.
2. **Permits for New Use of Land:**  
No land heretofore vacant shall hereafter be used for an existing use or land be hereafter changed to a use of a different class or type unless a Certificate of Occupancy is first obtained for the new or different use.
3. **Permits Required:**  
No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a Building Permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes affecting or regulated by the City Building Code, Housing Law of Michigan, or this Ordinance except for minor repairs or changes not involving any of the aforesaid features.
4. **Inspection:**  
The Building Inspector shall be notified by the person, firm or corporation obtaining the permit when the foundations are completed, and the inspector shall inspect same within three (3) days after notification. If in conformance with the provisions of this Ordinance, the Building Inspector shall endorse such fact upon the Building Permit.
5. **Roadside Stands and Markets:**  
A person may operate a roadside stand or market upon proper application for a temporary permit and approval by the Community Development Department subject to the following provisions:

- A. A permit may only be issued in the B-2 General Business District and shall be subject to the setback requirements of that district.
  - B. A permit for a portable roadside stand or market shall be issued only to the owner(s) or the lessee(s) of the property where the roadside stand or market is to be located. A permit may be issued for a roadside stand or market only for the period from May 1 to October 31 of a calendar year.
  - C. Any structure used for sales shall be portable and shall be removed from the roadside upon expiration of the permit for a roadside stand or market. If the property is undeveloped, any portable structure shall be removed from the property upon expiration of the permit.
  - D. A portable roadside stand or market shall not be located in the dedicated right-of-way of any thoroughfare within the City, and adequate off-street parking and ingress and egress shall be provided and maintained for the roadside stand or market in the ratio of at least one (1) space per one hundred (100) square feet of total floor area of any tent affixed to the ground, plus one (1) per each one (1) employee. In the case of a stand or tent stand a minimum of ten (10) customer parking spaces shall be provided, plus one (1) per each one (1) employee. In no instance shall any roadside stand or market facility provide less than ten (10) off-street parking spaces. Parking shall be provided in accordance with the standards of Section 1804 and Section 1805, except that gravel parking may be provided subject to the petitioner providing a method of dust control. In addition to dust control, gravel parking shall be kept graded level and free of potholes. The overnight parking of delivery trucks of goods and produce is strictly prohibited. A roadside stand or market selling any product that was not grown on the immediate property shall not be located within two hundred (200) feet of a residential dwelling, other than a dwelling on the property on which the roadside stand or market is located.
  - E. Hours of operation shall be limited to 7:00 a.m. through 9:00 p.m.
  - F. Any lighting shall be directed and controlled so as not to become a nuisance to adjacent property owners or motorists. A permit as required by the Community Development Department shall be obtained before any lighting is installed.
  - G. A permit for a portable roadside stand or market shall not be issued unless adequate toilet facilities and washing facilities are available for persons tending the roadside stand or market. Such sanitary facilities shall be in accordance with the requirements and standards of the State of Michigan Department of Public Health, the Oakland County Health Department, and the United States Department of Agriculture.
  - H. One (1) sign located on the premises where the roadside stand or market is located shall be permitted. The sign shall be located on private property outside of the public right-of-way and shall be limited to six (6) feet in height and twelve (12) square feet in area. The sign shall be removed from the premises when the activity ceases or when the permit expires.
  - I. A roadside stand or market shall at all times be kept and maintained in a clean, sanitary and orderly manner, and all structures, including, but not limited to, the stand itself, awnings, roofs and/or any attachments shall be properly maintained and kept in a state of proper repair.
6. Holiday Lot Sales:  
A person may operate a lot to sell pumpkins and/or Christmas trees upon proper application for a temporary permit and approval by the Community Development Department subject to the following provisions:
- A. Except as provided in Subsection (1) below, the City shall only issue permits for premises in the B-2 General Business District. All permits shall only be issued to the owner(s) or the lessee(s) of the property where the sales lot is to be located.
    - (1) Non-Profit Organization Exception: A permit may be issued in any zoning district to any non-profit fraternal, benevolent, patriotic, charitable, civic, or religious organization provided the lot operates at its principal office and/or meeting place within the City.
  - B. The portion of the parcel being utilized for the sales lot shall meet the setback requirements of the zoning district.

- C. A pumpkin sales lot shall not engage in the sale of any merchandise not directly associated with pumpkins and associated Halloween decorations. Pumpkins sales shall be the primary merchandise offered for sale.
- D. A Christmas tree sales lot shall not engage in the sale of any merchandise not directly associated with Christmas trees and associated Christmas decorations. Christmas trees shall be the primary merchandise offered for sale.
- E. Dates of operation - establishing and dismantling lots.
  - (1) A pumpkin sales lot shall only operate between October 15th and October 31st of each year. The lot may be assembled up to ten (10) days prior to October 15th and must be dismantled and cleaned by November 1st.
  - (2) A Christmas tree lot shall only operate on and between Thanksgiving Day (fourth Thursday of November) and December 25th of each year. The lot may be assembled up to ten (10) days prior to Thanksgiving Day (fourth Thursday of November) and must be dismantled and cleaned no later than January 1st.
  - (3) Upon the disassembling of a pumpkin sales lot and/or a Christmas tree lot, the property on which it is located shall be thoroughly cleaned and cleared of any and all pumpkins, straw, trees and tree remnants, trash, and any other waste material to the satisfaction of the Building Official.
  - (4) When a joint permit has been issued by the Community Development Department to operate a pumpkin sales lot and a Christmas tree lot consecutively on the same real property, temporary structures and amenities may remain on site provided other provisions of Subsection E (1-3) above are met.
- F. All lot operations shall be subject to requirements of Section 2003.5(C-I) – Roadside Stands and Markets, except that operations permitted to any non-profit fraternal, benevolent, patriotic, charitable, civic, or religious organization may be located with two hundred (200) feet of a residential dwelling.
- G. The Director of Community Development reserves the right to forward a temporary permit application to the City Council for public hearing and formal review based on the location, type, or size of facility.

*(Amended: 8-01-05 per Ordinance No. 756)*

*(Amended: 6-04-07 per Ordinance No. 801)*

*(Amended: 9-10-12 per Ordinance 12-851)*

*(Amended: 2-04-13 per Ordinance No. 13-853)*

#### **SECTION 2004. CERTIFICATES:**

No land, building or part thereof, shall be occupied by or for any use for which a Building Permit is required by this Ordinance unless and until a Certificate of Occupancy shall have been issued for such use. The following shall apply in the issuance of any Certificate:

1. Certificates Not to be Issued: No Certificate of Occupancy pursuant to the Building Code of the City of Auburn Hills shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this Ordinance.
2. Certificate Required: No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a Certificate of Occupancy shall have been issued for such building or structure.
3. Certificates Including Zoning: Certificates of Occupancy, as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings, or structures, shall also constitute Certificates of Occupancy as required by this Ordinance.
4. Certificates for Existing Buildings: Certificates of Occupancy may be issued for existing buildings, structures or parts thereof, or existing uses of land if, after inspection, it is found that such building, structures, or parts thereof, and such use of land are in conformity with the provisions of this Ordinance. Certificates of Occupancy may be issued for business buildings in B-1 and B-2 zones existing at the effective date of this Ordinance which change occupancy and which do not provide sufficient parking as required under off-street parking (Section 1804) provided there is no decrease in the number of spaces existing at the effective date of this Ordinance.

5. Temporary Certificates: Nothing in this Ordinance shall prevent the issuance of a Temporary Certificate of Occupancy for a portion of a building or structure in the process of erection or alteration, provided that such Temporary Certificate shall not be effective for a period of time in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.
6. Records of Certificate: A record of all Certificates issued shall be kept on file in the office of the Building Inspector, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the property involved.
7. Certificates for Dwelling Accessory Buildings: Buildings accessory to a dwelling shall not require separate Certificates of Occupancy but may be included in the Certificate of Occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
8. Applications for Certificates: Applications for Certificates of Occupancy shall be made in writing to the Building Inspector on forms furnished by the City and such Certificates shall be issued within ten (10) days after receipt or part thereof or the use of land is in accordance with the provisions of this Ordinance. If such Certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

#### SECTION 2005. FINAL INSPECTION:

The holder of every Building Permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Building Inspector immediately upon the completion of the work authorized by such Permit, for final inspection.

#### SECTION 2006. FEES:

Applicants for Building Permits required by this Ordinance shall pay to the City Treasurer, at the time application for such permit is made, the fees as established by resolution of the City Council.

#### SECTION 2007. PERFORMANCE GUARANTEES:

The City shall require that performance guarantees be deposited by applicants with the Community Development Department to assure that site improvements associated with development projects are completed and maintained in accordance with City standards, requirements, and approval conditions.

As used in this Section, site improvements include those features and actions associated with a development project which are considered necessary to protect natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area. Site improvements shall include mass grading, roadways, lighting, utilities, pathways, sidewalks, screening, landscaping, driveways, retaining walls, parking lots, drainage, stormwater retention basins, and other similar features. As a reference, City requirements related to record (as-built) plans, easements, grading certificates, maintenance and guarantees bonds for public improvements, ROW bonds, associated City inspection, administrative costs, and other similar items or permits are addressed with the Department of Public Works as outlined in the City's Engineering Standards and other applicable City ordinances and policies.

All performance guarantees shall meet the following requirements:

1. The performance guarantee shall be in the form of a cash deposit, irrevocable bank letter of credit with an evergreen clause, or certified check.
2. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. The City shall deposit the funds in an account in a financial institution with which the City regularly conducts business.
3. The amount of the performance guarantee shall be sufficient to cover fifty percent (50%) of the total estimated cost of site improvements associated with a project for which site plan or other applicable permit approval is sought, which amount shall be reviewed and approved by the City engineers, plus an administrative fee in an amount established by resolution of the City Council. The total estimated cost shall mean the amount equal to the estimated total cost of materials and labor required to install or construct the improvements. As a reference, Article VIII. Woodlands Preservation of Chapter 34 of the Auburn Hills Code of Ordinances shall apply where a Tree Removal Permit has been issued by the City Council to an applicant that intends to develop a

- subdivision, site condominium, mass grading project, or phased project. In such cases, a cash deposit or irrevocable letter of credit with an evergreen clause for each replacement tree, plus an administrative fee, in an amount established by resolution of the City Council shall be submitted to the Community Development Department.
4. The entire performance guarantee, less the ten percent (10%) detailed in Section 2007(5) below, shall be returned to the applicant upon satisfactory completion of the required improvements within the time limits specified in the Zoning Ordinance, Code of Ordinances, or as outlined in a Development Agreement as applicable. The applicant may request that the performance guarantee be returned as work progresses in reasonable proportion to the ratio of work completed on the required improvements. The applicant is responsible for paying all costs and fees, including all consultant or third-party fees, related to the City's determination of the reasonable proportion of the work completed.
  5. An amount not less than ten percent (10%) of the total performance guarantee shall be retained for at least one (1) year after installing landscape materials to ensure their proper maintenance and replacement, if necessary. This amount shall be released to the applicant upon certification by the Community Development Department that all landscape materials are being maintained in good condition.

Whenever required improvements are not installed or maintained per the standards or time limits of the Zoning Ordinance, Code of Ordinances, or as outlined in a Development Agreement as applicable, the City may complete the necessary improvements itself or by contract with an independent contractor, and assess all costs of completing said improvements, including administrative costs, against the performance guarantee or other surety. Before initiating the completion of said improvements, the City shall notify the owner, applicant, or other individual or firm responsible for installation and maintenance of the required improvements of the City's intent to complete said improvements and the estimated cost of completion.

*(Amended: 11-15-21 per Ordinance No. 21-924)*

#### SECTION 2008. INTERPRETATION, PURPOSE AND CONFLICT:

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any Ordinance rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Ordinance; nor is it by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such Ordinance or agreements, the provisions of this Ordinance shall control.

#### SECTION 2009. CHANGES AND AMENDMENTS:

The City Council may, from time to time, on recommendation from the Planning Commission, or on its own motion, or on petition, amend, supplement, modify or change this Ordinance in accordance with the authority of Act 207 of the Public Acts of 1921, as amended. Upon presentation to the City of a petition for amendment of said Ordinance by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be used to defray the expense of publishing the required notices and the expense of said Planning Commission.

#### SECTION 2010. VIOLATIONS:

- A. Any person, persons, firm, or corporation, or anyone acting on behalf of said person, persons, firm, or corporation, who should violate the provisions of this Zoning Ordinance, or who fails to comply with the regulatory measures or permit approvals (including conditions thereon) adopted or granted by the Auburn Hills Zoning Board of Appeals, Auburn Hills Planning Commission, or the Auburn Hills City Council, shall be responsible for a municipal civil infraction, and subject to the penalties, sanctions and procedures set forth in Sections 2010 - 2015 of this Zoning Ordinance.

- B. Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches, and mobile homes, used, erected, altered, raised, or converted in violation of any provision of this Zoning Ordinance, are hereby declared to be a nuisance *per se*. The court may, in addition to the remedies provided above, enter any such judgment, writ or order necessary to enforce or enjoin violation of this Zoning Ordinance.

**SECTION 2011. PUBLIC NUISANCE PER SE:**

Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this Zoning Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance *per se*, and may be abated by order of any court of competent jurisdiction.

**SECTION 2012. OWNERS/OCCUPANTS, SEPARATE OFFENSES:**

The owner of any building, structure or premises or part thereof and the person or persons in possession of any building, structure or premises or part thereof, where any condition in violation of this Zoning Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a separate offense and upon a determination of responsibility thereof shall be liable for a separate civil infraction.

**SECTION 2013. PENALTIES, SANCTIONS AND REMEDIES FOR ZONING ORDINANCE VIOLATION:**

- A. Penalties for Municipal Civil Infractions.
1. The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless otherwise specifically designated in the text of this Zoning Ordinance:
    - (a) First Offense. The civil fine for a first offense violation shall be in an amount that is set forth for said offense in the Schedule of Fines that is adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
    - (b) First Repeat Offense. The civil fine for any offense which is a first repeat offense shall be in an amount that is set forth for said offense in the Schedule of Fines that is adopted by the 52-3 District Court, plus costs and other sanctions for each offense.
    - (c) Second Repeat Offense. The civil fine for any offense which is a second repeat offense shall be in an amount that is set forth for said offense in the Schedule of Fines that is adopted by the 52-3 District Court, plus costs and other sanctions for each offense.
    - (d) Third Repeat Offense. For a third repeat offense or subsequent offense, a defendant shall appear before the judge with the civil fine for any offense that is a third repeat offense or subsequent offense to be in an amount that is set forth for said offense in the Schedule of Fines that is adopted by the 52-3 District Court, plus costs and other sanctions for each offense.
  2. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this Zoning Ordinance.
  3. Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
  4. Remedies not exclusive. In addition to any remedies provided for in this Zoning Ordinance, any equitable or other remedies available may be sought.
  5. The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.
- B. A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

**SECTION 2014. RIGHTS AND REMEDIES ARE CUMULATIVE:**

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**SECTION 2015. COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION:**

- A. A municipal civil infraction may be commenced upon the issuance by an authorized official of a municipal civil infraction citation directing the person alleged to be responsible to appear in court.
- B. The form of citations used to charge municipal civil infraction violation shall be in accordance with state law.
- C. The basis for issuance of a municipal civil infraction citation shall be as set forth below:
  - 1. An authorized official who witnesses a person violate the Zoning Ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a citation.
  - 2. An authorized official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.
  - 3. An authorized official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate the Zoning Ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the City approves in writing the issuance of the citation.
- D. Municipal civil infraction citations shall be served in the following manner:
  - 1. Except as otherwise provided below, the authorized official shall personally serve a copy of the citation upon the person alleged to be in violation of the ordinance.
  - 2. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the person alleged to be in violation of the Zoning Ordinance but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
  - 3. A citation served as provided in Paragraph (d)(2), above, shall be processed in the same manner as a citation served personally upon an individual.

**SECTION 2016. VARIANCE:**

A zoning variance is a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are practical difficulties or unnecessary hardships applied to property. A variance is not justified unless at least one (1) of these elements is present in the case.

**SECTION 2017. EXCEPTION:**

An exception is a use permitted only after review and approval by the City Council of an application, such review being necessary because the provisions of the Ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by Ordinance.

**SECTION 2018. ZONING COMMISSION:**

The City of Auburn Hills Planning Commission is hereby designated as the Commission specified in Section 12, of Act 285 of the Public Acts of 1931, and shall perform the duties of said Commission as provided in the statute in connection with the amendment of this Ordinance. All members of the Planning Commission shall be residents of the City of Auburn Hills.

**SECTION 2019. PLANNING COMMISSION APPROVAL:**

In cases where the Planning Commission is empowered to recommend approval for certain use of premises under the provisions of the Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, as required under its rules or procedures.

The Planning Commission may recommend imposing such conditions or limitations in recommending approval as may in its judgment be necessary to fulfill the spirit and purpose of this Ordinance.

*(Amended: 8-09-04 per Ordinance No. 740)*