

CHAPTER 22 ADMINISTRATION AND ENFORCEMENT

SECTION 22.01 INTERPRETATION

- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare.
- B. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.
- C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

SECTION 22.02 ZONING ADMINISTRATOR

It is hereby provided that the provisions of this Ordinance shall be administered and enforced by the Zoning Administrator and designees of same. The Zoning Administrator shall among other duties interpret the Ordinance, issue all permits and notice of violations, except building permits, provided for in this Ordinance.

- A. Any use of land or development activity not specifically mentioned in this Ordinance shall be classified by the Zoning Administrator.
- B. If the Zoning Administrator finds that the use is not similar in character to uses listed in the Ordinance he shall so find. The applicant may then make application to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include the proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Land Use.

SECTION 22.03 FEES

- A. Except as may be provided for otherwise in this Ordinance, the City Commission shall determine and set fees to be collected for all applications for zoning approvals. These fees shall be collected prior to issuance of any permit or certificate, and other official actions required by this Ordinance.
- B. The fee schedule shall be that adopted by resolution of the City Commission as amended from time to time.

SECTION 22.04 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

No building permit or certificate of occupancy shall be issued by the City except in compliance with all codes and ordinances including this Ordinance. No building permit shall be required for one-story detached accessory structures if the floor area does not exceed one hundred twenty (120) square feet in area.

SECTION 22.05 TIME LIMITS FOR PLANNING COMMISSION AND CITY COMMISSION APPROVALS

The following time limits for acting on proposed projects by the City and/or Planning Commission must be observed unless waived by or a request for an adjournment is received from the applicant in writing. Projects will be considered approved if the City fails to act within the prescribed time limits unless the failure is beyond the reasonable ability of the City/Planning Commission to control. Projects approved as a result of a failure to act must still comply with any applicable provisions of the Zoning Ordinance or any other applicable ordinance.

- A. Rezoning, Planned Unit Development, Site Condominium Project
 - 1. Planning Commission: ninety (90) days from the setting of a public hearing by the Planning Commission.
 - 2. City Commission: one hundred and twenty (120) days from the setting of a public hearing by the Planning Commission.
- B. Special Land Use, Site Plan Review: Ninety (90) days from the setting of a public hearing by the Planning Commission.

SECTION 22.06 PERFORMANCE GUARANTEES

- A. As a condition of approval of a site plan review, special land use, or variance, the City Commission, Planning Commission, Zoning Administrator, or the Zoning Board of Appeals, may require a performance guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
 - 1. Prior to the issuance of a Certificate of Occupancy, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Building Inspector. The amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.

2. The required performance guarantee shall be payable to the City and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City.
3. Upon receipt of the required performance guarantee, the Building Inspector shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the City.
4. The Building Inspector, upon the written request of the obligor, 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 improvements.
5. When all of the required improvements have been completed, the obligor shall send written notice to the Building Inspector of completion of the improvements. Thereupon, the Building Inspector shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
6. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
7. The Building Inspector shall maintain a record of required performance guarantees.
8. In lieu of providing performance guarantees, the City and the applicant for a development proposal may agree to enter into a development agreement that would be recorded with the Register of Deeds.

SECTION 22.07 VIOLATIONS AND PENALTIES

A. Unless a section of this ordinance specifically provides otherwise, any person, firm, corporation, trust, partnership or other legal entity which violates the zoning ordinance or violates any provision or condition imposed by the Planning Commission, City Commission, or zoning board of appeals in pursuance of any ordinance provision or assigned condition, shall be responsible for a municipal civil infraction and shall be subject to fines, costs and orders as provided by law.

B. Each day a violation occurs or continues shall constitute a separate offense, and shall make the violator liable for the imposition of a fine and other penalties for each day of violation.

C. The owner and co-owner of any building, structure or premises which is in violation of this ordinance shall be responsible for a municipal civil infraction and shall be subject to the fines, costs and orders as provided by law.

D. Any building or structure which is erected, altered or converted, or any use of any premises or land which is begun or changed subsequent to the effective date of this ordinance that is in violation of any of this ordinance is declared to be a public nuisance per se, and may be abated by order of a court of competent jurisdiction.

E. Any person who violates any provision of Section 15.04.I or 16.05.D. is responsible for a civil infraction and shall be fined not less than \$2,500.00 for each violation. Any person who, after having been determined to be responsible for a violation of this article or the act, commits and is found responsible for a subsequent violation within a two-year period, shall be fined double the amount assessed for the immediate preceding violation.

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

G. Nothing herein shall be interpreted to limit the authority of the City to revoke an approval previously granted for a violation of this ordinance, which right is expressly reserved.

F.

SECTION 22.08 VALIDITY SEVERABILITY

Should any section, clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part other than the part declared to be invalid.

SECTION 22.09 REPEAL OF PRIOR ORDINANCE NO. 15-88

The City of Kentwood, Kent County, Michigan, does hereby repeal in its entirety that certain Zoning Ordinance approved and adopted for the City of Kentwood, Kent County, Michigan on December 20, 1988, as amended. Nothing in this Ordinance, however, shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of the Zoning Ordinance in effect at the time of the effective date of this Ordinance.

SECTION 22.10 EFFECTIVE DATE

This Ordinance shall take effect on the seventh (7th) day following publication.

The foregoing ordinance was offered by Commissioner Brinks, supported by Commissioner Clanton, the vote being as follows:

YEAS: All
NAYS: None
ABSENT: None

ORDINANCE DECLARED ADOPTED.

Mary Bremer
Deputy City Clerk

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Kentwood City Commission held April 16, 2002.

Mary Bremer
Deputy City Clerk