



CITY COUNCIL REPORT

DATE: December 1, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
R. Brent Savidant, Acting Planning Director

SUBJECT: Announcement of Public Hearing – Zoning Ordinance Text Amendment (File Number ZOTA 241) – Establishment of Zoning Administrator

A public hearing for this item is scheduled for the December 21, 2009 City Council meeting. A Planning Commission public hearing is scheduled at the December 15, 2009 Special meeting.

The Economic Development Services Division of the City of Troy is undergoing restructuring. The intent of the restructuring effort is to improve administrative efficiencies, therefore creating a stronger investment environment in Troy. Zoning Ordinance functions presently provided by the Building Department will be assigned to the Planning Department.

The City of Troy Zoning Ordinance assigns a number of responsibilities to the Building Inspector, including administrative and enforcement responsibilities and interpretation of the Zoning Ordinance. It is standard practice for Zoning Ordinances in Michigan to include a provision that establishes a Zoning Administrator and defines the responsibilities of the Zoning Administrator.

The proposed amendment establishes that the Zoning Administrator will be responsible for administration and enforcement of the Zoning Ordinance, including the Board of Zoning Appeals. The City Manager will assign Zoning Administrator responsibility to an existing City employee. At this time the Zoning Administrator will be the Assistant City Manager, Economic Development Services. The Planning Department will assist the Zoning Administrator in these tasks.

The Planning Commission public hearing scheduled at the December 15, 2009 Special meeting is at 6:30 p.m. in Council Chambers.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. ZOTA 241

Prepared by RBS/MFM

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
PLANNING COMMISSION PUBLIC HEARING DRAFT
ZOTA 241

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article XLII of Chapter 39

Article XLII of Chapter 39 of the Code of the City of Troy is amended to establish the position of Zoning Administrator and clarify the responsibilities of the Zoning Administrator, to read as follows:

42.00.00 ARTICLE XLII ADMINISTRATION AND ENFORCEMENT

42.10.00 ENFORCEMENT:

Except where herein otherwise stated, the Department of Building Inspection through its Director of Buildings and Inspection, officers, or employees, Zoning Administrator or such deputies as designated by the Zoning Administrator shall administer and enforce the provisions of this Chapter. The Building Inspector, hereinafter referred to, shall mean the Director of Buildings and Inspection, his officers, or employees. The Zoning Administrator shall be designated by the City Manager.

42.15.00 DUTIES AND RESPONSIBILITIES

42.15.01 The duties and responsibilities of the Zoning Administrator shall include the following:

A. Receive and review for completeness all applications for site plan review, special land uses, planned unit developments, or other matters that the Planning Commission is required to decide under this Ordinance and refer such applications to the Planning Commission for determination.

B. Receive and review for completeness all applications for appeals, variances, or other matters that the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.

C. Receive and review for completeness all applications for text or map (rezonings) amendments to this Ordinance and refer such applications to the Planning Commission and City Council for determination.

D. Make periodic site inspections to determine Ordinance compliance.

- E. Implement the decisions of the Planning Commission, Zoning Board of Appeals, and City Council.
- F. Coordinate with the Building Inspector and Planning Director where necessary to administer this Ordinance.
- G. Investigate complaints regarding violations of the Zoning Ordinance.

42.15.02 The duties and responsibilities of the Building Inspector shall be to administer and enforce the Building Code adopted by the City of Troy, as well as perform duties and responsibilities as set forth in any other Ordinance adopted by the City of Troy.
DUTIES OF BUILDING INSPECTOR:

~~The Building Inspector shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Chapter. It shall be unlawful for the Building Inspector to approve any plans or issue any permits or certificates of occupancy for an excavation or construction until he has inspected such plans in detail and found them to conform with this Chapter. The Building Inspector shall record all non-conforming uses existing at the effective date of Ordinance 23 for the purpose of carrying out the provisions of Section 40.50.00. Under no circumstances is the Building Inspector permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as Building Inspector. The Building Inspector shall not refuse to issue a permit when conditions imposed by this chapter 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.~~

42.50.00 FEES:

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter may be collected by the Department of Building InspectionCity in advance of issuance. The amount of such fees shall be established by the City Council by resolution and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

Section 3. Amendment to Article XLIII of Chapter 39

Article XLIII of Chapter 39 of the Code of the City of Troy is amended to assign responsibilities for administering the Board of Zoning Appeals to the Zoning Administrator, to read as follows:

43.00.00 ARTICLE XLIII BOARD OF ZONING APPEALS

43.20.00 MEETINGS:

The Board of Zoning Appeals shall adopt rules of procedure. All meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at times as the Board determines. All hearings conducted by the Board shall be open to the public. The ~~Director of Building and Zoning~~Zoning Administrator, or his representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and official action. Four (4) members of the Board shall constitute a quorum for the conduct of its business. The Board shall have the power to subpoena and require the attendance of witnesses,

administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to matters before it.

(Rev. 05-04-98)

43.30.00

APPEALS:

An appeal may be made to the Board of Appeals by any person or entity affected by a decision of the ~~Director of Building and Zoning~~Zoning Administrator. The appeal shall be made by filing with the ~~Director of Building and Zoning~~Zoning Administrator an application for hearing before the Board of Zoning Appeals specifying the grounds for appeal. The ~~Director of Building and Zoning~~Zoning Administrator shall transmit to the Board all documents relating to the appeal.

(Rev. 05-04-98)

43.40.00

STAY:

An appeal stays the ~~Director of Building and Zoning~~Zoning Administrator's decision until the Board makes a decision unless the ~~Director of Building and Zoning~~Zoning Administrator certifies to the Board, after the appeal is filed, that a stay would cause imminent peril of life or property. If certification is made, the decision shall not be stayed unless ordered by the Board or the Circuit Court.

(Rev. 05-04-98)

43.45.00

HEARING ON APPEALS AND REQUESTS FOR VARIANCES:

The Board of Zoning Appeals shall schedule a hearing on all appeals and requests for variances and give notice as set forth below. The Board of Zoning Appeals shall make a decision on the appeal and/or variance request within a reasonable time. A party may appear at the hearing in person or by a representative. The Board of Zoning Appeals may reverse, affirm or modify the decision of the ~~Director of Building and Zoning~~Zoning Administrator. The Board of Appeals may grant or deny a request for a variance, or grant a lesser variance than requested. The Board of Appeals may impose conditions allowed by this ordinance and the Michigan Zoning Enabling Act.

(Enacted: 09-18-06; Effective: 10-01-06)

43.55.00

CONDUCT OF HEARINGS:

Any person or entity affected by the decision of the ~~Director of Building and Zoning~~Zoning Administrator may appear at the hearing in person or by a representative. That party may call witnesses and introduce evidence on the issue.

(Rev. 05-04-98)

43.60.00

DECISION OF THE BOARD:

The decision of the Board of Appeals is final.

43.60.01

A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the ~~Director of Building and Zoning~~Zoning Administrator. The decision of the Board is binding upon the appellant and ~~Director of Building and Zoning~~Zoning Administrator. Any items or conditions of the Board's decision shall be incorporated into the permit.

(Rev. 05-04-98)

43.65.00 REVIEW BY CIRCUIT COURT

A person aggrieved by a decision of the Board of Zoning Appeals may appeal the decision to Circuit Court, as provided by law. An appeal to Circuit Court shall be filed within 30 days after the Board of Zoning Appeals certifies its decision in writing or approves the minutes of its decision.

(Enacted: 09-18-06; Effective: 10-01-06)

43.70.00 POWERS OF THE BOARD OF ZONING APPEALS:

The Board of Zoning Appeals shall have the following powers or duties:

43.70.01 To hear, and decide appeals from any decision of the ~~Director of Building and Zoning~~Zoning Administrator in the enforcement of this Chapter which falls within the jurisdiction of the Board of Zoning Appeals.

(Rev. 05-04-98)

43.90.00 RECONSIDERATION:

A decision of the Board cannot be reconsidered unless newly discovered evidence or substantially changed conditions are brought to the attention of the ~~Director of Building and Zoning~~Zoning Administrator.

(Rev. 05-04-98)

43.95.00 FEES:

Before accepting an appeal, the ~~Director of Building and Zoning~~Zoning Administrator shall collect for the City of Troy the appropriate fee.

(Rev. 05-04-98)

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

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