

VILLAGE OF AUGUSTA
Augusta, Michigan 49012
Kalamazoo County

ORDINANCE 142

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENTS TO
VILLAGE ZONING ORDINANCE

TO: RESIDENTS AND PROPERTY OWNERS OF THE VILLAGE OF AUGUSTA, KALAMAZOO
COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

NOTICE IS HEREBY GIVEN that the Augusta Village Planning Commission will hold a zoning public hearing on Thursday, July 12, 1979, commencing at 8:00 p.m. at the Village Hall located within the Village of Augusta, Kalamazoo County, Michigan.

PLEASE TAKE FURTHER NOTICE that the proposed amendments to the Village Zoning Ordinance to be considered at said public hearing include, in brief, the following:

1. The amendment of Section 2 pertaining to "Purpose"; Section 3 pertaining to "Resolution"; Section 4, "Definitions" pertaining to the definition of "Special Exception"; Section 6 pertaining to the Board of Appeals; Section 8.73 pertaining to Special Exception Uses for campgrounds; Section 10 pertaining to Special Exception, Use Variance, or Dimension Variance provisions and procedure; Section 14 pertaining to standards required of special exception uses; and Section 15 pertaining to Table of Uses, all of said proposed amendments to be made so that the Village Zoning Ordinance complies with the new City and Village Zoning Enabling Act being Act 638 of 1978, all of said proposed amendments being in accordance with the tentative text proposed by the Village Planning Commission.
2. The amendment of Section 9 of the Zoning Ordinance pertaining to supplementary regulations, subsection 9.1c2 thereof pertaining to parking of motor vehicles, so as to authorize the parking of not to exceed 1 non-agricultural commercial vehicle (truck) within residential zones in the Village which exceeds one ton, whether or not parked upon school or church property.
3. Such other and further matters as may properly come before the Village Planning Commission at said public hearing.

PLEASE TAKE FURTHER NOTICE that the Zoning Ordinance, zoning map, tentative text changes and other data may be examined at the Village offices by request to the Village Clerk, Eleanor Baxter, 212 West Van Buren, Augusta, Michigan 49012, (616) 731-4884, and also at the offices of the Village Attorneys, Bauckham, Reed, Lang, Schafer & Travis P.C., 500 Park Building, Kalamazoo, Michigan 49007, at any time during regular business hours on any day except public and legal holidays from and after the publication of this notice and until and including the day of said hearing and may be further examined at said public hearing.

PLEASE TAKE FURTHER NOTICE that the Planning Commission and the Village Council reserve the right to amend, alter or change any of the proposed text provisions in said Zoning Ordinance without notice before or after said public hearing.

VILLAGE OF AUGUSTA PLANNING COMMISSION - By: Wayne TerBerg, Chairman
Eleanor Baxter, Village Clerk, 212 W. VanBuren, Augusta, MI (616) 731-4884

CERTIFICATE OF POSTING

I, Eleanor W. Baxter, Clerk of the Village of Augusta, hereby certify that I posted true and correct copies of this Ordinance in three public places within the Village, being, Augusta Village Hall, U.S. Post Office, and Baxter's Augusta Pharmacy.


Eleanor W. Baxter, Clerk
Village of Augusta

VILLAGE OF AUGUSTA
KALAMAZOO COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT

ORDINANCE NO. 142

ADOPTED: April 28, 1980

EFFECTIVE: May 18, 1980

An ordinance to amend the Zoning Ordinance of the Village of Augusta by the amendment of Section 2 pertaining to Purposes, Section 3 pertaining to Resolution, Section 4 pertaining to the definition of Special Exception, Section 6 pertaining to the jurisdiction and procedure of the Board of Appeals, Section 8 pertaining to Campgrounds as a special exception use, Section 10 pertaining to special exceptions, use variances, dimension variances, and the procedure therefor, Section 14, pertaining to the standards required for special exception uses, and Section 15 pertaining to Table of Uses; and to amend such other parts or portions of the zoning ordinance which are inconsistent herewith.

THE VILLAGE OF AUGUSTA, KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

SECTION I

Section 2 of the Zoning Ordinance of the Village entitled "Purpose" is hereby amended to read as follows:

Section 2. Purpose.

This Zoning Ordinance is for the purposes of providing for the establishment of districts or zones within the use of land and structures, the height, the area, the size, and location of buildings are to be regulated within the Village and within which districts regulations are established for the light and ventilation of those buildings, and within which districts or zones the density of population is regulated by this Ordinance; to provide for the use of certain state licensed residential facilities; to provide for the acquisition by purchase, condemnation, or otherwise of private property which does not conform to the regulations and restrictions of the various zones or districts provided and to provide for amendments hereto and to provide for any conflict with state law, Village ordinances or other regulations; and to provide penalties for violation of this Ordinance.

SECTION II

Section 3 of the Zoning Ordinance pertaining to "Resolution" is hereby amended to read as follows:

Section 3. Resolution.

BE IT ORDAINED by the Village of Augusta pursuant to the provisions of the City or Village Zoning Enabling Act that this Ordinance regulates and restricts the use of land and structures within the Village; to meet the needs of the state's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that the use of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems, sewage disposal, water, energy, education, recreation, and other public

service and facility needs; and to promote public health, safety and welfare; and for these purposes, to divide the Village into districts of a number, shape and area considered best suited to carry out these purposes. For each of these districts, regulations are imposed designating the uses for which building or structures shall or shall not be erected or altered and designating the trades, industries and other land uses or activities that shall be permitted or excluded or subjected to special regulation.

This Ordinance also regulates and limits the height and bulk of buildings erected and regulates and determines the area of yards, courts and other open spaces and limits or restricts the maximum number of families which may be housed in dwellings.

This Ordinance provides land development regulations and districts which apply only to land areas and activities to achieve specific land management objectives including the establishment of land development regulations and districts in areas subject to damage from flooding or erosion. This Ordinance provides for the continuation of lawful uses of land or structures existing on the date of the enactment of this Ordinance, subject to conditions and limitations pertaining to alterations, reconstruction, additions or changes thereto.

The Village shall have the authority by this Ordinance to acquire by purchase, condemnation, or otherwise private property for the removal of nonconforming uses and structures except for the purpose of public housing. This Ordinance provides that the elimination of non-conforming uses and structures is declared to be for a public purpose and for a public use. The Village may institute and prosecute proceedings for condemnation of non-conforming uses and structures under the power of eminent domain granted by Michigan law to villages.

SECTION III

Section 4 entitled "Definitions" of the Augusta Village Zoning Ordinance is hereby amended so that the reference to "Board of Appeals" in NO. 48, "Special Exception" is hereby changed so that the reference is to "Planning Commission."

SECTION IV

Section 6 of the Village Zoning Ordinance entitled "Board of Appeals" is hereby amended so that subsection 6.2(d) is hereby eliminated. Furthermore, Subsection 6.3(d) thereof is hereby amended so that the words "or special exception" is hereby eliminated. Furthermore, Subsection 6.4 thereof is hereby amended to read as follows:

"6.4. Application for Variances and Appeals."

- a. Requests for variances and appeals shall be made by submitting an application (or letter) to the Village Clerk. A fee as determined by resolution of the Village Council shall accompany the application to help defray costs of processing said application.
- b. A site plan, plot plan, or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses, shall be submitted with each request for a variance or appeal."

A new subsection 6.5 entitled "Decisions" is hereby added, providing as follows:

"6.5. Decisions."

The concurring vote of 2/3 of the members of the Board shall be

necessary to reverse an order, requirement, decision or determination of an administrative official to decide in favor of the applicant a matter upon which they are required to pass under the Ordinance or to effect a variation in the Ordinance."

An additional subsection 6.6, entitled "Procedure and Hearings" is hereby added to provide as follows:

"6.6. Procedure and Hearings."

The Board of Appeals shall fix a reasonable time for the hearing of any application or matter pending before it and shall give due notice to the persons to whom real property within 300 feet of the premises in question is assessed and to the occupants of single - and two - family dwellings within 300 feet, the notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. The Board of Appeals shall decide any application, petition or matter pending before it within a reasonable time. At the hearing, a party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make an order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. The Board may impose conditions where making any discretionary decision as authorized by this Ordinance."

SECTION V

Section 8.73, entitled "Special Exception Uses" of the "C-2" Commercial District, Highway, is hereby amended in subsection 17 thereof pertaining to seasonal public and privately owned campground as special exception uses, so that subsection 17 thereos, where it has referred to the Zoning Board of Appeals shall hereafter refer to the Planning Commission.

SECTION VI

Section 10 of the Village Zoning Ordinance entitled

"Special Exception, Use Variance, or Dimension Variance,

Explanation, subsection 10.1 and 10.2 thereof are hereby amended to read as follows:

"10.1 In order to make this Ordinance flexible to meet the needs of the changing trends in development and new technology, the Planning Commission is authorized to approve special exception uses and the Board of Appeals is authorized to allow dimension variances and use variances. In this way the Ordinance does not become a rigid document that cannot be altered, but serves as a guideline upon which the Planning Commission or Board of Appeals may make enlightened judgments keeping development within the general philosophy of this Ordinance.

Certain types of uses in each zoning classification are required to secure a permit as a special exception use to allow them to be placed in such zoning classification as their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few such uses, such as dumps and junk yards, are inherently so objectionable as to make extra regulations and controls advisable even in the zone to which they are permitted. Others such as gasoline stations, taverns, must be located with discrimination in relation to their surroundings. All of the items listed are proper uses of land in the particular zoning

classifications, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they would be detrimental to the health, safety or general welfare of the public, or the use, enjoyment or value of adjoining or nearby properties, the uses listed as special exceptions are permitted in certain zones only if granted by the Planning Commission.

"10.2. Special Exception, procedures for application, review and approval

(a) Petitions for special exceptions shall be filed with the Village Clerk on forms provided therefor. The petitioner for a special exception shall submit plans and specifications or other data or explanatory materials stating the methods by which he will comply with the conditions specified for each grant of a special exception. At the time of filing of his application for a grant of special exception, the petitioner shall pay to the Clerk the fee required to cover the cost of advertising and of sending notices as determined by the Village Council and other miscellaneous expenses in connection with his petition, as determined by resolutions of the Village Council.

(b) Upon receipt of an application for a special exception use, a notice that a request for the special exception use has been received shall be published in a newspaper of general circulation in the Village and a copy shall be sent by mail or personal delivery to the owners of property for which the approval is being requested and to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet, such notice being published, given or mailed not less than five and not more than fifteen days before the application is to be considered at a public hearing. If the name of the occupant is not known, the term "Occupant" may be used in making notification. The notice shall:

1. Describe the nature of the special exception use request.
2. Indicate the property which is the subject of the of the special exception use request.
3. State when and where the matter will be considered at a public hearing.
4. Indicate where the Ordinance, map, plan and other related materials may be examined and where written comments will be received and considered.
5. Indicate that the public hearing on the special exception use request will be held at the date and time stated and that any interested person may be heard at that time.

(c) The Planning Commission may deny, approve or approve with conditions, requests for special exception uses. The decision on the special exception use shall be incorporated in a statement of conclusions relative to the special exception use under consideration. The decision shall specify the basis for the decision and any conditions imposed. The petitioner and the Village Building Inspector and/or Zoning Enforcement Officer shall receive a copy of the statement containing such decision."

Section 10.3 is hereby amended so that the caption thereof does not refer to the words "Use Variance or." Furthermore, said subsection 10.3 is further amended so that reference in the first sentence thereof to Board of Appeals shall be followed by "or Planning Commission." Furthermore, the reference in subsection (b) thereof to Board of Appeals shall be followed by the words "or Planning Commission."

Subsection 10.4, pertaining to Use Variance or Special Exception, Special Provisions, is amended so that the reference to Board of Appeals shall be followed by "and Planning Commission."

Subsection 10.5, pertaining to Special Exception Use, Planned Unit Development (PUD) is hereby amended so that the reference to Zoning Board of Appeals shall hereafter be to "Planning Commission."

Subsection 10.51, entitled "Purpose" is hereby amended to read as follows:

"10.51. Purpose:

The purpose of the Planned Unit Development regulations is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the providing of public services and utilities, encourage useful open space; and provide better housing, employment and shopping opportunities particularly suited to the needs of the residents of the Village and the entire area. The Planned Unit Development shall afford flexibility, subject to the approval of the overall plan under the following regulations and conditions, as to permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas and land use density."

Section 10.52 entitled "General Requirements for Planned Unit Developments," subsection (e) thereof is hereby amended to read as follows:

"(e) Approval: Approval by the Planning Commission of a sketch plan and detailed site plan for all multiple use developments is required."

Subsection 10.54, entitled "Design Requirements is hereby amended so that all references to the Zoning Board of Appeals shall hereafter be to the Planning Commission.

Subsection 10.55, entitled "Application Procedure and Approval Process" is hereby amended to read as follows:

"10.55. Application Procedure and Approval Process

"(a) General. Whenever any PUD is proposed, before any building permit is granted, the developer shall apply for and secure approval of a special exception use in accordance with the following procedures and obtain approval of a detailed site plan from the Planning Commission.

"(b) Application for Sketch Plan Approval.

So that the Planning Commission and the developer can reach an understanding of what is being proposed, and what is required, the developer shall submit a sketch plan to the Planning Commission. The sketch plan shall be drawn to approximate scale and shall clearly show the following information:

1. Boundaries of property.
2. Location and height of all buildings.
3. Interior roadway systems including parking facilities and existing rights-of-way.
4. Interior open space system.
5. The overall storm water drainage system.
6. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
7. Delineation of the various residential and/or commercial areas, including size, number, location and number of housing units.
8. Construction phases if applicable.
9. General statement as to how common open space is to be owned and maintained.

(c) Upon receiving an application for a sketch plan approval, the Planning Commission shall hold a public hearing concerning same and shall give notices as required for applications for special exception uses as contained in this Ordinance (Section 10.2). Within a reasonable time following the public hearing, the Planning Commission shall either approve or disapprove or approve with conditions or modifications, the sketch plan submitted by the developer. The decision of the Planning Commission shall state the reasons for approval, disapproval or approval with conditions and restrictions. It shall forward a copy of its report to the developer and to the Building and/or Zoning Administrator of the Village.

(d) Upon issuance of the approval or approval subject to conditions and restrictions of the sketch plan, the developer then has six months in which to prepare and submit his detailed site plan. The detailed site plan shall include the following information:

1. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within 300 feet of the applicant's property.

2. A topographic map showing contour intervals of not more than 4 feet of elevation.

3. A site plan showing location, proposed use and height of all buildings, location of all parking areas, with ingress and egress drives thereto, location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any.

4. A tracing overlay showing all soil types, their location and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

The Planning Commission shall hold a public hearing upon the detailed site plan upon receipt of the above. Notices of the hearing shall be prepared and given in accordance with the provisions for notices pertaining to special exception uses as stated above. Within a reasonable time following the public hearing, the Planning Commission shall deny, approve or approve with conditions, the detailed site plan for the Planned Unit Development. It shall prepare a report stating its conclusions on the request for the Planned Unit Development, the basis for its decision and any conditions relating to an affirmative decision. Copies of the same shall be mailed or given to the developer and to the Building or Zoning Administrator of the Village. Final approvals may be granted on each phase of a multi-phase Planned Unit Development if each phase contains the necessary components to insure protection of natural resources and of the health, safety and welfare of the users of the Planned Unit Development and the residents of the surrounding area and same is in compliance with these regulations. All Planned Unit Development approvals shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

(e) Required Standards for Approval

The Planning Commission shall render its approval or disapproval and so notify the applicant and the building inspector. In any case where construction of the PUD has not been commenced within one year from the date of the approval, the special exception use permit shall be null and void. The Planning Commission's review of the detailed site plan shall, moreover, include the following:

1. Adequacy and arrangements of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, pedestrian movement.
2. Location, arrangements, appearance, and sufficiency of off-street parking.
3. Location, arrangement, size and entrances of buildings, walkways and lighting.
4. Relationship of the various uses to one another.
5. Adequacy, type and arrangements of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands.

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6. In the case of residential uses, the adequacy of usable open space for playground and recreation.
 7. Adequacy of water supply storm water and sanitary waste disposal facilities.
 8. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 9. Compliance with all regulations of the Village Zoning Ordinance.
 10. Compatibility of adjoining uses on and off the site and preservation thereof.

Section 10.6 entitled "Use Variance" is hereby amended to read as follows:

"10.6 Use Variance.

Land and structure uses not specifically mentioned in the foregoing text or possessing unique characteristics may be allowed as use variances and, as such, may be authorized by the issuance of permits with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. Use variances shall not be granted until compatible with the uses allowed in the district. Also, the applicant must show necessity for such proposal in order to make reasonable use of the property. Furthermore, there just be a showing that there will be practical difficulties and undue hardship to the applicant by not being able to obtain permission for the proposed use. The regulations and procedures set forth under Section 6 of this Zoning Ordinance pertaining to the Board of Appeals shall apply to hearings on applications or petitions for use variances.

Section 10.7 entitled "Dimension Variance" is hereby amended to read as follows:

"10.7. Dimension Variance

The Zoning Board of Appeals shall have the authority to grant dimension variances upon application of any interested party and upon giving notice as required by law, providing the applicant shows evidence of practical difficulties or unnecessary hardship in complying with the provisions of the Ordinance as to particular property. Dimension variances are those that relate to required size of buildings or structures, height, setback or similar matters, but can not allow an unauthorized use.

SECTION VII

Section 14 of the Village Zoning Ordinance entitled "Standards Required of Special Exception Uses" is hereby amended so that all references contained therein to the Board of Appeals shall hereafter be to the Planning Commission.

SECTION VIII

Section 15 of the Village Zoning Ordinance, being "Table of Uses" is hereby amended so that the reference in the footnote on the last page thereof shall be to the Planning Commission rather than to the Board of Appeals.

SECTION IX

All parts or portions of the Zoning Ordinance which are inconsistent herewith are hereby repealed. The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason, it shall not affect any part or portion thereof.

SECTION X

This Ordinance shall take effect May 18, 1980.

Eleanor W. Baxter
(x) Eleanor W. Baxter
Eleanor W. Baxter, Clerk

CERTIFICATE

I, Eleanor W. Baxter, Clerk of the Village, hereby certify that Ordinance #142 was offered by Heath, supported by Angell, and voting on said Ordinance were the following:

Angell, Bauserman, Eldridge, Curtis, Eno, Heath

I further certify that I did post notice of said Ordinance at the following public places within the Village:

Village Hall

Post Office

Baxter Pharmacy

Eleanor W. Baxter
(s) Eleanor W. Baxter
Eleanor W. Baxter, Clerk
Village of Augusta