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**ORDINANCE NO. 101 & 101A**  
**WATERFRONT CONTSTRUCTION ORDINANCE**  
**FOR THE**  
**CITY OF THE VILLAGE OF DOUGLAS**  
**ALLEGAN COUNTY**  
**MICHIGAN**

**AS AMENDED August 3, 1987**

**ORDINANCE NO. 101A  
THE CITY OF THE VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN**

**WATERFRONT CONSTRUCTION ORDINANCE**

**THE VILLAGE OF DOUGLAS ORDAINS:**

**ARTICLE I**

**INTENT**

**1.0 Title:**

This Ordinance shall be known as the Village of Douglas Waterfront Construction Ordinance.

**1.1 Purpose:**

The purpose of this ordinance is to establish requirements and procedures for the construction and location of pier/docks, pilings, bulkheads, and mooring bays in and immediately adjacent to the waters of the Kalamazoo River, Kalamazoo Lake, and Lake Michigan within the Village of Douglas; to regulate dredging and backfill below the ordinary high-water mark; to provide for administration and enforcement of this ordinance; to provide for penalties for violation of this ordinance and to repeal all ordinances which are in conflict with this ordinance.

**1.2 Objectives:**

The objective of this ordinance is to assure minimal disturbance of the natural ecology; to assure minimal interference with the Kalamazoo River, Kalamazoo Lake, and Lake Michigan, for recreational purposes such as small boat sailing and racing, canoeing and fishing; to prevent interference with riparian rights of other property owners, and to promote the public health, safety, and general welfare.

**ARTICLE II**  
**DEFINITIONS**

**2.0 Bulkhead:**

A wall or retaining structure constructed along a shoreline or waterway to prevent the earth behind it from sliding or eroding.

**2.1 Boat Lift:**

A mechanism or apparatus used to rise up and hold a boat out of the water, not to exceed five thousand (5,000) pounds in capacity.

**2.2 Dredged Material:**

Material which is excavated or dredged from a body of water or river.

**2.3 Dock:**

As used in this ordinance, dock shall mean the same as “pier” defined in Section 2.10 of this ordinance.

**2.4 Finger Pier:**

A pier/dock extending at right angles from a pier or wharf, often located parallel to the shoreline.

**2.5 Littoral Material:**

Material existing on shore or in the water which is subject to erosion and displacement by wave forces.

**2.6 Major Construction:**

All waterfront construction as set forth in Article III of this ordinance, requiring a major construction permit.

**2.7 Marina:**

A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities, and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a marina under this ordinance.

**2.8 Minor Construction:**

All waterfront construction as set forth in Article IV of this ordinance, requiring a minor construction permit.

**2.9 Ordinary High Water Mark:**

Considered to be within and up to two (2) feet of the ordinary mark as established on June 1<sup>st</sup> of the current year or June 1<sup>st</sup> of the previous year, which ever is applicable, and/or at the discretion of the Village Planning Commission.

**2.10 Piers:**

A platform extending perpendicular from the shore over water and supported by piles, pillars, or columns, used to secure and protect watercraft. The terms “pier” and “dock” as used in this ordinance shall be synonymous.

**2.11 Spring Piles:**

A beam of timber, concrete or steel beams, driven into the water bottom as a means of securing watercraft, or to facilitate the maneuvering of watercraft.

**2.12 Wetlands:**

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamp, marshes, bogs and similar areas.

**2.13 Zoning Administrator:**

The person/persons appointed by the Village Council pursuant to the Village Zoning Ordinance to administer the Village Zoning Ordinance and this ordinance.

**2.14 Non-Conforming Structure:**

Any boat hoist, bulkhead, dock, finger-pier, pier wharf, or other structure that is because of width, length, location, live-load capabilities, etc., not in conformance with regulations contained in this ordinance.

**2.15 Wharf:**

A platform or other flat structure extending shoreward of a bulkhead running parallel with the shoreline.

## ARTICLE III

### MAJOR WATERFRONT REGULATIONS

#### 3.0 **Permit:**

Prior to commencement of any major waterfront construction as hereinafter defined, a permit shall be obtained from the Village of Douglas in accordance with the procedures set forth in this Article.

#### 3.1 **Major Construction Defined:**

The construction, reconstruction, repair or replacement of bulkheads, docks, piers, boat lifts, or other structures, or a condominium extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease or otherwise make available to the general public, space for the recurring or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment. Major construction shall also include any pier/dock whether for commercial or private use, which extends into the water of the Kalamazoo River or Kalamazoo Lake which extends forty five (45) feet in length. A major construction permit shall always be required for waterfront construction in connection with the establishment of a private or commercial marina where permitted under the village of Douglas Zoning Ordinance.

#### 3.2 **Compliance with Zoning Ordinance:**

All major waterfront construction shall be subject to site plan review (see Chapter XV, Douglas Village Zoning Ordinance).

#### 3.3 **Pier/Dock Construction:**

Piers/Docks constructed pursuant to this Article shall not extend outboard more than one hundred (100) feet from the bulkhead. The main pier extending perpendicular from the shoreline shall have a minimum width of four (4) feet. Finger piers extending from the main pier shall not exceed thirty (30) feet in length, and shall have a minimum width of three (3) feet. Piers/docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact in adjacent properties and environments. All pier/docks shall be located so as not to infringe on the riparian rights of other property owners. Pier/dock construction must be substantial and the design and materials must be consistent with established construction standards as required by the State of Michigan Construction Code. All pier/docks constructed under a major construction permit shall have the capability to carry a live load of one hundred (100) pounds per square foot and shall have located thereon adequate lighting in areas available for public use in periods of darkness.

#### 3.4 **Bulkhead Construction:**

The entire property shoreline shall be protected by an imperial bulkhead. Bulkhead design and construction shall be consistent with the established construction standards. Bulkheads

shall not be less than one (1) foot height than the highest water level on record, and the top of the bulkhead shall not be less than six (6) inches higher than the backfill on adjacent terrain.

**3.5 Bulkhead Location:**

Bulkheads shall not be located on a line closer toward the water than the nearest existing structure of a similar nature, or at a location on the bottom of high water datum.

**3.6 Backfill and Dredging:**

Backfill and dredging, if to be performed in connection with major construction must be specified in requests for all permits as to: (1) need, (b) location, (c) quantity, (d) disposition of spoil. Only clean backfill may be used.

**3.7 Spring Piles:**

Spring piles shall be considered part of the basic structure and must be located within the overall length requirements for piers/docks as set for the in this Article.

**3.8 Wetlands:**

No major construction shall be allowed in wetland areas.

**3.9 Permit Procedures:**

An application for major construction permits shall be filed with the Zoning Administrator or his/her designated agent, appointed pursuant to the Village of Douglas Zoning Ordinance. The application shall be available at the Village Clerk's office and shall require the following information:

- A. Applicants full name, mailing address, and telephone number.
- B. Location where proposed construction activity will occur.
- C. The legal description of upland property at the waterfront construction site.
- D. Reason for the proposed waterfront construction, its purpose and intended use.
- E. The name and address of the owner of the upland real property.
- F. A statement as to why construction will not cause pollution, impair or destroy the water or any natural resources.
- G. A description of any alternatives to the proposed waterfront construction if any has been considered.
- H. The names and addresses of adjacent property owners, and a statement as to whether any objections have been made to the applicants concerning the proposed waterfront construction.
- I. the name, address and telephone number of the applicants authorized agent, if the application is being handled through an agent, attorney or other representative of the applicant.
- J. The dates the proposed waterfront construction is intended to commence.
- K. Whether an application to the other appropriate federal or state agency, as required by law, have been made, and the date such application has been submitted.
- L. A statement as to whether the proposed construction has been approved or denied or not acted upon by other state or federal agencies as required by law.

- M. Plans of the proposed waterfront construction in appropriate form as set forth in the permit application.
- N. A statement as to whether the facility is to be leased, rented, or made available to the general public, or is to be used in conjunction with any other commercial facility available for use by the general public.
- O. Copies or evidence of Corps of Engineers and DNR Permits.

**3.10 Filing Fees:**

A filing fee as determined by the Douglas Village Council and set forth in its' Schedule of Fees shall accompany each application.

**3.11 Processing of Application:**

Within ten (10) days from the date of filing the application, the Zoning Administrator, or his/her designated agent shall review the application and forward the same to the Douglas Village Planning Commission with any comments the Zoning Administrator, or his/her designated agent, deems appropriate. Any incomplete application filed with the Zoning Administrator or his/her designated Agent shall be returned to the applicant. However, another filing fee shall not be required upon re-submission of a prior incomplete application.

**3.12 Duties of Planning Commission:**

The Planning Commission shall consider the application within thirty (30) days after application from the Zoning Administrator and then schedule a public hearing unless further time is agreed upon by the parties concerned. The Planning Commission shall approve, deny, or require modification of proposed major construction, and in doing so, shall consider the following criteria:

- A. The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site.
- B. The impact such construction shall have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create.
- C. Compliance with the requirements of this ordinance.
- D. Compliance with the Village of Douglas Zoning Ordinance, including site plan review.
- E. Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

**3.13 Notice of Hearing:**

The Zoning Administrator or his/her designated agent shall have published a notice of the date, time, and place of the public hearing to consider the application and receive objections, and such notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction. The notice shall be published at least one (1) time in a newspaper of general circulation in the Village of Douglas, not less than ten (10) days before the date set for the public hearing. In addition, notice shall be sent to all property owners within three hundred (300) feet.

**3.14 Denial of Permit:**

If the Planning Commission shall deny the application for permit, they shall state their reasons therefore.

**3.15 Modification:**

The Planning Commission shall have the right to require modification of the proposed major construction plan as submitted in the application, and may issue a permit conditional on the applicant's acceptance of the modifications as determined by the Planning Commission. No final approval or occupancy permits shall be issued until these conditions are met.

**3.16 Assistance of Building Inspector or Engineer:**

Before approval of the application, the Planning Commission may request the opinion of the Village building Inspector or such licensed engineer as it may designate regarding the proposed major construction. If such an opinion is desired by the Planning Commission, it may delay a decision on the application submitted pursuant to this Article for a period of not more than thirty (30) days from the date of the public hearing.

**ARTICLE IV**  
**MINOR CONSTRUCTION**

**4.0 Permit:**

Prior to the commencement of the minor waterfront construction as hereinafter defined, a permit shall be obtained from the Village of Douglas in accordance with the procedures of this Article.

**4.1 Minor Construction Defined:**

Construction of bulkheads, piers/docks, mooring buoys, boat lifts, or other structures extending into or located on the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan where the purpose is for the private use of such facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club. The purpose of this classification is to permit construction of any dock, pier, or wharf not longer than forty five (45) feet, on any one parcel of land.

**4.2 Pier/Dock Construction:**

Piers/docks constructed pursuant to this Article shall not extend outboard more than forty five (45) feet from the bulkhead or shore line, the length of which shall be measured from same. All piers/docks shall be substantially constructed and meet generally accepted construction standards. Piers/docks shall normally be of straight form and perpendicular to the bulkhead or shoreline. Finger piers shall not be permitted.

**4.3 Number of Piers/Docks:**

Only one (1) pier/dock shall be allowed per lot or parcel.

**4.4 Bulkheads:**

Bulkheads may be required at the discretion of the Zoning Administrator or his/her designated agent depending on the conformation of the shore area and its contemplated use, and if necessary, to prevent erosion of the shoreline by wave action, or to prevent pollution by material from the shore caused by local conditions. Construction and location, if required, shall be in accordance with Section 3.4 of this ordinance.

**4.5 Backfill and Dredging:**

Backfill and dredging in minor construction project shall be controlled the same as set forth in Section 3.6 of this ordinance.

**4.6 Boat Lifts:**

Boat lifts shall be permitted for seasonal use. A boat lift may be installed in place of a pier/dock or at the end of a pier/dock but in such case shall extend not more than forty five (45) feet from the bulkhead. One (1) boat lift per parcel or lot shall be permitted.

**4.7 Mooring Buoys:**

A single mooring buoy may be directly located off the shore or bulkhead, however, it must meet USCG design standards and lighting requirements for buoy and boat. One (1) single mooring buoy shall be permitted per parcel or lot.

**4.8 Permit Procedure:**

An application for minor construction permit shall be filed with the Zoning Administrator or his/her designated agent. The application form shall be available at the Douglas Village Office and shall require the same information as set forth in Section 3.9 of this ordinance. Upon receipt of the application adjacent property owners shall be notified and have the opportunity to respond within eight (8) days.

**4.9 Processing of Application:**

The Zoning Administrator, or his/her designated agent, shall review the application within ten (10) days from the date of filing the application with the Zoning Administrator or his/her designated agent. If the Zoning Administrator, or his/her designated agent determines that the proposed construction is in fact, Minor Construction as defined in this ordinance and that the proposed minor construction otherwise complies with the requirements of this ordinance, he/she shall issue a permit to the applicant. If the Zoning Administrator or his/her designated agent, determines that the proposed minor construction does not comply with this ordinance he shall not issue the permit until the proposed minor construction is modified accordingly. If the Zoning Administrator, or his/her designated agent, finds that the proposed minor construction is Major Construction as defined in Article III of this ordinance, he shall refer the same to the Planning Commission which shall act on the application in accordance with Article III of this ordinance, he shall refer the same to the Planning Commission which shall act on the application in accordance with Article III of this Ordinance.

**4.10 Public Hearing:**

It is the intent of this ordinance to provide for speedy processing of minor construction permits. No public hearing before the Planning Commission shall be required for all construction which constitutes Minor Construction as defined in Section 4.1 of this Article.

**4.11 Filing Fees:**

A filing fee as determined by the Village of Douglas Village Council and set forth in its Schedule of Fees shall accompany each application.

## ARTICLE V

### ADMINISTRATION AND ENFORCEMENT

#### 5.0 **Enforcement:**

The Zoning Administrator or his/her designated agent, shall administer and enforce this ordinance, and shall have the right to enter and inspect periodically all major and minor construction sites during the process of the work and shall inspect said construction upon completion of the work to insure compliance with this ordinance, before issuing an occupancy permit.

#### 5.1 **Revocation of Permit:**

The Zoning Administrator or his/her designated agent, shall have the authority to revoke any permit issued pursuant to this ordinance, if the requirements of the permit and the provisions of this ordinance are being violated, and in such case shall have the power to issue a "Stop Work Order".

#### 5.2 **Assistance of Building Inspector or Engineer:**

The Zoning Administrator, or his/her designated agent, may seek the advice and assistance of the Village of Douglas Building Inspector or such licensed engineer as he may designate if he feels it necessary to assure compliance with this ordinance, and the Building Inspector and/or licensed engineer shall render such assistance when requested to do so.

**ARTICLE VI**  
**UNSAFE STRUCTURES**

**6.0 Use:**

No owner or occupant of premises on which a pier/dock, bulkhead, boat lift, mooring buoy, or other such waterfront structure, has deteriorated or fallen into disrepair or has been damaged by fire, ice or other casualty shall permit the use thereof, and such owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition, and until removed or placed in a safe and sound condition, shall post a warning notice and block access thereto.

**6.1 Removal of Structures:**

Any dilapidated or dangerous waterfront structure constructed pursuant to this ordinance along the waterfront of the village of Douglas shall constitute a public nuisance and shall be removed or repaired within thirty (30) days after notice of such condition has been given to the owner of the property involved.

**6.2 Notice:**

If such dilapidated or dangerous waterfront structure exists, the Zoning Administrator, or his designated agent, shall send a notice of such condition to the owner of the premises as is disclosed by the last tax roll of the Village of Douglas at such address as is shown thereon, by certified mail. Such notice shall require that the dangerous structure be removed or repaired. Any person, who fails, refuses or neglects to repair or remove such a dangerous or dilapidated structure within the time limits above provided for, shall be guilty of a misdemeanor and subject to prosecution and penalty as provided for in Article VII of this ordinance.

## ARTICLE VII

### REMEDIES AND PENALTIES

#### 7.0 **Violation:**

Any construction along or abutting upon or extending into the waters of the Kalamazoo River, Kalamazoo Lake, or Lake Michigan, in violation of this ordinance is hereby declared to be a nuisance per se. Any person or persons who shall violate or refuse to comply with the provisions of this ordinance, or fail to obey any lawful order of the Zoning Administrator or his/her designated agent or Planning Commission in the enforcement of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed one hundred (100) dollars or imprisonment not to exceed ninety (90) days. The Zoning Administrator, or his/her designated agent, or the Village of Douglas Planning Commission or the Douglas Village Council is authorized and empowered to make a complaint before a court of competent jurisdiction when in his/her/their opinion the provisions of this ordinance have been violated.

#### 7.1 **Other Relief:**

The Douglas Village Council or the owners of the real property affected, may institute injunction, mandamus, abatement, or any other appropriate legal action or proceedings to prevent, enjoin abate or remove any structure constructed and maintained in violation of this ordinance.

#### 7.2 **Continuing Violation:**

Each day of violation of this ordinance shall be considered a separate offense.

## ARTICLE VII

### APPEALS

#### 8.0 Appeals:

Any person aggrieved by any order, decision, requirement or ruling by the Zoning Administrator, or his/her designated agent, or the Planning Commission under this ordinance may take an appeal directly to the Circuit Court.

### RESOLUTION VILLAGE OF DOUGLAS ALLEGAN COUNTY, MICHIGAN

WHEREAS, Ordinance No. 101, of the Village of Douglas Ordinances provides in Section III (3.10) that the Village Council shall establish application filing fees for major waterfront construction, and in Section IV (4.11) that the Village Council shall establish application filing fees for minor waterfront construction, required under Ordinance No. 93 by Resolution; now, therefore, Be it Resolved as Follows:

1. That pursuant to Section III (3.10), the application fee to be assessed each person applying for a permit for major waterfront construction from the effective date hereof shall be \$250.00.
2. That pursuant to Section IV (4.11) the application fee to be assessed each person applying for a permit for minor waterfront construction from the effective date hereof shall be \$25.00.
3. This Resolution shall be effective as of the effective date of Ordinance No. 101.

This Resolution passed on the 4<sup>th</sup> day of February, 1985