

ARTIVLE VII

ADMINISTRATION AND ENFORCEMENT

701 ADMINISTRATION

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator and Assistant Zoning Administrator. The Assistant Zoning Administrator shall act in the capacity of Zoning Administrator in all situations where the Zoning Administrator is unable to act by reason of absence, illness, attention to other responsibilities or any other disability and when requested to so act by the Zoning Administrator for the Township of West Traverse.

701:1 TOWNSHIP PLANNING COMMISSION

The Township Planning Commission is created as specified in Section 3, Act 168, Public Acts of Michigan, 1959, as amended. All powers, duties and responsibilities provided by Act No. 184 of the Public Acts of 1943, as amended, for zoning boards created hereunder are transferred to the Planning Commission by resolution of the Township Board as provided in Section 11 of Act 168 of the Public Acts of 1959, as amended, and shall perform the duties of said Planning Commission/Zoning Board as provided in these Acts together with such other powers and duties as are given to such Planning Commission by the provisions of this Ordinance, including authority to act on all matters requiring the approval or recommendation of such Planning Commission.

701:2 DUTIES AND LIMITATIONS OF THE ZONING ADMINISTRATOR

1. The Zoning Administrator shall have the power to grant permits and certificates of occupancy and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.
2. Every application for permit for excavation, construction, moving, alteration or change in type of use or type of occupancy shall be accompanied by a written statement and plans or plats, drawn to scale and showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the

- proposed work or use is in conformance with the provisions of this Ordinance.
- a. The actual shape, location and dimension of the lot: if the lot is not a lot of record, sufficient survey data to locate the lot on the ground.
 - b. The shape, size and location of all buildings, or other structures to be erected, altered or moved and of any other buildings, or other structures already on the lot.
 - c. The existing and intended use of the lot and of all structures upon it.
 - d. Such other information concerning the lot, adjoining lots or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.
3. If the proposed excavation, construction, moving, alteration or use of land as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a permit. However:
- a. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance.
 - b. The Zoning Administrator, under no circumstances, is permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
 - c. The Zoning Administrator, under no circumstances, is permitted to make changes in this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.
 - d. The Zoning Administrator shall issue a permit when the imposed conditions of this Ordinance are complied with by the applicant regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.
 - e. If any application for such permit is not approved, the Zoning Administrator shall state, in writing, the cause for such disapproval.
4. A zoning permit shall be valid for a period not to exceed one (1) year from date of issuance unless construction has started and proceeds to completion. The Zoning Administrator may grant an extension, thereof, for a period not to exceed one (1) year.

701:3 ZONING BOARD OF APPEALS

PURPOSE

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of the Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Township Zoning Board of Appeals.

CREATION – MEMBERSHIP

The West Traverse Township Board shall appoint a Township Zoning Board of Appeals to consist of five (5) members. The first member of such Board of Appeals shall be the chairman of the Township Planning Commission or his/her designated representative from the Planning Commission; the second member shall be a member of the Township Board; and three (3) members shall be selected and appointed by the Township Board. No elected officer of the Township nor any employee of the Township Board may serve simultaneously as a member or as an employee of the Township Zoning Board of Appeals. The Township Board shall provide that the Township Board of Appeals shall have five (5) members. The additional members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. The Township Board may further appoint two (2) alternate members as prescribed by State Law, to sit on the Zoning Board of Appeals whenever a regular member expects to be absent. The member who is a member of the Township Board shall not serve as chairman of the Township Board of Appeals.

Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

RULES OF PROCEDURE

1. The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Township Clerk.
2. Meetings of the Board shall be open to the public and shall be held at the call of the chairman and at such times as the Board may determine.
3. The Board shall act by resolution. The concurring vote of a majority of the members of said Board shall be necessary to reverse any order, requirement, decision, determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which the Board is required to pass under this Ordinance or to grant variances from the requirements of this Ordinance.
4. Records – Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the

members and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become a public record and as such be filed in the office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant and to the Zoning Administrator.

APPEALS

1. Appeals to the Zoning Board of Appeals may be made by any person aggrieved or by an officer or Board of the Township.
2. Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after receipt of the ruling. The persons making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
3. Hearings – When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the secretary or the secretary's designated official, shall immediately place the said request for appeal upon the calendar for hearing and shall cause notices stating the time, place and purpose of the hearing to be served personally or by mail addressed to the parties asking the request for appeal at least fifteen (15) days prior to the date of the scheduled hearing. The Zoning Board of Appeals may recess such hearing from time to time and if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required (State Open Meetings Act – must be followed).
4. Decisions – The Zoning Board of Appeals shall return a decision upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be transmitted, in writing, to the appealing party and to the Zoning Administrator.
5. Representation – Any party may appear in person, by agent or by attorney at a hearing considering his request or appeal.

DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

The Township Zoning Board of Appeals shall have the following specified duties and powers:

1. Review – Shall hear and decide appeals from any review, any order, requirement,

decision or determination made by the Zoning Administrator in the administration of this Ordinance.

2. Interpretation - Shall have the power to:
 - a. Hear and decide upon appeals for the interpretation of the provisions of this Ordinance.
 - b. Determine the precise location of the boundary lines between zoning districts when there is disagreement with a decision on such subject made by the Zoning Administrator.
 - c. Determine the off street parking and loading space requirements of any use which is not mentioned in the West Traverse Township Zoning Ordinance.
3. Variations – The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area, width regulations, building height, square foot regulations, yard width and depth loading space as specified in this Ordinance when all the basic conditions listed below are specified. It shall be found by the Zoning Board of Appeals that any variance granted:
 - a. Will not be contrary to the public interest or to the spirit and intent of this Ordinance.
 - b. Shall not permit the establishment within a Zoning district any use which is not permitted by right within that district.
 - c. Will not cause any adverse effect to property values in the vicinity or in the zoning district or the township.
 - d. Related only to property that is under control of the applicant.
 - e. Affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity and have not resulted from any act of the applicant.
4. In addition to the foregoing conditions, the following rules shall be applied in the granting of variances:
 - a. In granting a variance, the Zoning Board of Appeals may specify, in writing to the applicant, such conditions in connection with the granting that will, in its judgment, satisfy the objective of the regulations or provisions to which such variance applies. The breach of any such conditions shall automatically invalidate the permit granted.

- b. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.

STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of the appeal shall have been filed with him/her that, for reasons of fact stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court on notice to the officer from whom the appeal is taken and on due cause shown.

SPECIAL LAND USES AND PLANNED UNIT DEVELOPMENTS

1. The Township Zoning Board of Appeals shall have no jurisdiction over special land use or planned unit development decisions of the Township Planning Commission and no appeal from such Planning Commission decisions in regard thereto shall be taken to the Board of Appeals.
2. The Board of Appeals shall have no jurisdiction to hear appeals concerning an ordinance amendment, text and/or map, as duly enacted by the Township Board.

STATEMENT OF GROUNDS OF DETERMINATION

The Board of Appeals shall prepare a written, fully documented, statement of the grounds for any decision it may make.

TERMINATION

Any variance granted by the Zoning Board of Appeals which has not been implemented or initiated within one (1) year shall be null and void.

701:4 CERTIFICATE OF OCCUPANCY

1. No building, structure, zoning lot or part thereof, other than a single family residence which is subject to the provisions of this Ordinance, shall be used or

occupied or changed in its use or principal occupant until the Zoning Administrator has, after final inspection, issued a certificate of occupancy indicating compliance has been made with all the provision of this Ordinance. However, the issuance of a certificate of occupancy shall in no case be construed as waiving any provision of this Ordinance.

2. Under such rules and regulations as may be established by him, the Zoning Administrator may issue a temporary certificate of occupancy for a part of a building.
3. Upon written request from the owner or tenant, the Zoning Administrator shall issue a certificate of occupancy for any building or premises existing at the time of enactment of this Ordinance, certify after inspection, the extent and kind of use made of the buildings or premises and whether such use conforms to the provisions of this Ordinance.
4. No permit or certificate shall be issued for any illegal use or occupancy existing at the time of the adoption of this Ordinance.

701:5 AMENDMENT PROCEDURE

This Ordinance may be amended or supplemented from time to time in accordance with Section 14 of Act 1894 of the Public Acts of 1943, as amended. The zoning map shall be revised promptly upon adoption of such amendment or supplement when applicable.

701:6 FEES

The Township Board shall establish, by resolution, fees for each of the following:

1. Inspection and certification. Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this Ordinance, shall be collected by the Township Treasurer in advance of the issuance of such permits or certificates.
2. Appeals. Any person appealing under this article of the Ordinance, in all cases, shall pay the established fixed fee plus such additional fees as may be deemed reasonable by the Township Board for expert services necessary to render a proper decision.
3. Reviews. Fees for the review of site plans, special land use approval or other matters requiring Planning Commission or Township Board review under the terms of this Ordinance, shall be paid to cover the cost of such reviews including

planner, engineer and other such professional services.

4. Rezoning. Any petition for the rezoning of land requiring an amendment of the West Traverse Township Zoning Ordinance shall be accompanied by a fee payable by the applicant. Said fee shall be utilized to defray all costs including necessary expert opinions in conjunction with the legislative review of the applicant.
5. Other. Fees for special resolutions pertaining to any matter relevant to this Ordinance or for the cost of special meetings of the Planning Commission or the Board of Appeals, shall be paid by the recipient or applicant prior to said resolution or meeting.

702 VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis of the violation and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as is provided for by this Ordinance.

The Zoning Administrator may issue a citation for violation of this Ordinance. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not more than \$500.00, in addition to all other costs, damages, expenses, and other fees and remedies provided or allowed by law.

Each and every day such violation continues shall be deemed a separate and distinct violation. Whoever assists in the commission of such violation shall be responsible for a separate violation. The owner of any building or structure, lot or land or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, corporation, entity or person employed in connection therewith and who assists in the commission of such violation shall also be responsible for a separate violation.

The issuance of a citation for a municipal civil infraction shall not in any way limit the Township from seeking enforcement of this Ordinance in any other manner, including, but not limited to an action to abate any nuisance created by a violation of this Ordinance and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law, in connection with such abatement and the enforcement of this Ordinance.

703 VALIDITY

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 thereof, other than the part so declared to be invalid.

704 CONFLICTING ORDINANCES

All other ordinances and parts of ordinances, or amendments thereof, of West Traverse Township, in conflict with the provisions of this Ordinance except those ordinances and parts of ordinances or amendments thereto which are more restrictive than this Ordinance, are hereby repealed.

705 EFFECTIVE DATE

This Ordinance shall take effect 30 days after publication.

Adopted by the West Traverse Township Board at a Special Meeting held on February 16, 1972.

Audrey Matthews
Township Clerk

- ** Published in the Petoskey News Review on March 8, 1972.
- * Effective April 7, 1972.