

**ARTICLE XIV
ADMINISTRATION AND ENFORCEMENT**

Section 14.1 Administration

It shall be the duty of the Zoning Administrator, who shall be appointed by and on such terms determined by the Township Boards, to administer this Ordinance and to enforce the provisions contained herein. The Board of Zoning Appeals shall interpret this Ordinance, hear appeals from acts or interpretations of the Zoning Administrator, make decision on matters coming within its jurisdiction and instruct the Zoning Administrator as to the steps necessary to enforce its decision.

Section 14.2 Zoning Administrator

It shall be the duty of the Zoning Administrator to receive applications for land use permits and issue or deny same; to inspect buildings or structures; to determine compliance with the land use permits issued in compliance with this Ordinance; and to be in charge of the enforcement of this Ordinance. The Township Boards may, in its discretion, instruct the Zoning Administrator to make efforts to obtain voluntary compliance with this Ordinance. He/she shall perform such other duties as the Township Boards may prescribe.

The Zoning Administrator, or designee, shall enforce this Ordinance, and shall have the authority to:

- A. Approve all zoning permits and certificates of compliance.
- B. Conduct inspection of all buildings and structures and the use of all lands subject to the provisions of this ordinance to determine compliance.
- C. Maintain permanent and correct records of this ordinance including, but not limited to zoning permits, exceptions, variances and appeals.
- D. Provide and maintain a public information office relative to all matters arising out of the administration of the ordinance.
- E. Investigate all applications for uses subject to special approval and variances addressed to the Planning Commission and Board of Appeals, and report these findings to the Commission and Boards.
- F. Initiate appropriate action for proceedings to prevent, restrain, correct or abate any illegal act in violation of this Ordinance.

Section 14.3 Land Use Permits

No person shall erect or place any building, having more than two hundred (200) square feet of floor area, nor shall any person make an addition of more than two hundred (200) square feet of enclosed floor space to any existing building, or change or establish a new use for any land within any zoning district without first obtaining a land use permit therefore. Application shall be made to the Zoning Administrator for such permit, on forms to be supplied by him, together with an application fee. The Zoning Administrator shall have the power to require proof of ability to comply with all of the requirements of this Ordinance pertaining to said use and may require a site plan review as specified in Article XIII, and further he may also require proof of ability to meet all public health standards and applicable State and County laws, regulations and ordinances.

Permit Requirements

The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:

- A. A site plan, if required, or a sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein:
 - 1. The size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered;
 - 2. The width and alignment of all abutting streets, highways, alleys, easements and public open spaces;
 - 3. The front yard dimensions of the nearest building on both sides of the proposed building or structure;
 - 4. The location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration;
 - 5. And the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.
- B. The property owner shall physically stake on the ground the location of where buildings will be located. The Zoning Administrator shall inspect the site prior to construction to be sure that the actual locations of the proposed buildings on the ground are the same as the locations of the buildings as drawn on the site map.

C. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator or this Ordinance.

D. Such other information as may be required to determine compliance with the Ordinance.

A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Benzie County Building Department.

Any Zoning Permit granted under this Ordinance that has been issued shall become null and void after twelve (12) months from date of issuance unless substantial construction has begun. No permit shall be transferable to another parcel.

The Zoning Administrator, or designee, may in conjunction with the issuance of a municipal civil infraction, issue a stop work order on work in progress when that work violates any provision of the Zoning Ordinance. The stop work order shall remain in effect only until adjudication of the municipal civil infraction citation by the court or until modified or revoked by a court of competent jurisdiction.

For each Zoning Permit, a fee shall be paid to the Zoning Administrator, or designee, who shall turn over the funds to the Treasurer. No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Boards.

Section 14.4 Fees

A. The Township Boards may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:

1. Zoning permits.
2. Special use permits.
3. Requests for classification of property.
4. Appeals to or requests for interpretations by the Zoning Board of Appeals.
5. Requests for variances from the Zoning Board of Appeals.
6. Requests for a special meeting of the Planning Commission.
7. Change of Use Permits.
8. Requests for change to Class A non-conforming use.
9. Amend zoning ordinance text.
10. Amend zoning districts map.
11. Site Plan Review – Minor
12. Site Plan Review – Major.

- B. In addition to the basic application fee, applicants for zoning permits and/or approval shall pay the costs of review of applications for variances, special use permits, site plans, rezoning, subdivisions, site condominiums, and similar requests. Such charges shall be in addition to the basic application fee, in an amount equal to the township's actual expenses incurred for reviewing the application, including but not limited to the cost of:
1. Joint Planning Commission subcommittee meetings.
 2. Special meetings.
 3. Reports and review by Township Attorney and preparation of appropriate approving resolutions or ordinances.
 4. Reports and review by Township Planner.
 5. Reports and review by Township Engineer.
 6. Additional notices of public hearing.
 7. Traffic studies.
 8. Environmental impact studies.
 9. Similar services and expenses.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the

amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the townships in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section 14.5 Posting of Financial Guarantee

The townships are empowered to require a performance bond, irrevocable letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Township Treasurer at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance guarantee shall be forfeited. The townships shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvement completed, as attested to by the depositor and verified by the Zoning Administrator, or designee. In cases where provisions of this Ordinance have not been met, the amount of the aforementioned performance guarantee shall be used by the townships to complete the required improvements; and the balance, if any, shall be returned to the applicant.

Section 14.6 Moving Structures

No permit is required for moving a structure if it remains on the same lot and no change is made in the structure and if it complies with setback and yard requirements. The only requirement is that the Zoning Administrator be notified prior to moving the structure.

Section 14.7 On-Site Inspection

Before issuing a land use permit for the erection of any building on land classified "high water table" (high seasonal stages of ground water level six (6) feet or less from the surface) as shown by the current Soil Survey of Benzie County, Michigan, as published by the United States Department of Agriculture, an on-site inspection shall be made by the Zoning

Administrator, or an inspection report submitted by a representative of the Soil Conservation District and the County Health Department supporting said use and any conditions or alterations recommended by the report shall be included in the Land Use Permit. The applicant shall bear the cost of such inspection and report.

Section 14.8 Lots of Record

The Zoning Administrator may issue land use permits to lots of record where healthful, safe and sanitary water source and waste disposal systems are available. The setback requirements shall conform to those provided in this Ordinance. However, in the case of previously platted lots, where setback requirements cannot be met, the most suitable building site shall be chosen so as not to endanger the aesthetic character of the surrounding area.

Section 14.9 Permit Effective Date

A land use permit shall be effective for twelve (12) months from the date of issuance. Extension of that time may be obtained by applying to the Zoning Administrator. Such extension of permit effectiveness is required only if the land use change planned under the original permit had not been yet completed.

Section 14.10 Violations and Penalties

A. Nuisance per se

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

B. Inspection

The Zoning Administrator, or designee, shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

C. Penalties

1. Any person, partnership, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.9939 of Michigan compiled Laws, and shall be subject to a fine of not more than five hundred dollars (\$500). Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from

compliance with the provisions of this Ordinance.

2. The Zoning Administrator, or designee, is hereby designated as the authorized townships official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
3. In addition to enforcing this Ordinance, as a municipal civil infraction, the townships may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 14.11 Conflicting Regulations

When a conflict exists between this ordinance and a state or federal regulation, deed restriction, or private covenant, the more stringent regulation shall control.

Section 14.12 Amendments to this Ordinance

- A. The Township Boards are authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in Act 110 of the Public Act of 2006, as amended.
- B. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map may be amended, supplemented or changed by action of the Township Boards following a recommendation from the Planning Commission.
- C. Proposals for amendments, supplements or changes may be initiated by the Township Boards on their own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- D. The procedure to be followed for initiating and processing an amendment shall be as follows:
 1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator, or designee, on a standard form provided and shall be accompanied by the fee as prescribed by Section 14.5 of this Ordinance.
 2. The Zoning Administrator, or designee, shall notify, in writing, the Township Clerks and Chair of the Planning Commission at or before the time he/she transmits the amendment request to the Planning Commission.
 3. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in

terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.

4. Before ruling on any proposal the Planning Commission shall conduct a public hearing as required pursuant to Act 110 of 2006, as amended and as outlined in Section 14.13.
5. Following the public hearing the Planning Commission shall submit the proposed amendment including any zoning map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
6. The Planning Commission shall submit a final report/recommendation and proposed text to the Township Boards along with a summary of the comments received at the public hearing.
7. The Township Boards may hold additional public hearings, if they decide it is necessary and following the requirements of Section 14.13. The Township Boards may adopt or reject any proposed amendment, or refer it back to the Planning Commission for further review as prescribed by Act 110 of 2006, as amended.
8. Once adopted by the Township Boards, amendments to this Ordinance shall be filed with the Township Clerks, and one (1) notice of adoption shall be published in a newspaper of general circulation in the townships within fifteen (15) days after adoption.
9. No application for a rezoning which has been denied by the townships 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 Planning Commission to be valid. A rezoning request may be submitted if the Township Attorney certifies that a mistake has been made in the prior procedures.

Section 14.13 Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this Section with regard to public notification.

A. Responsibility

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the townships and mailed or delivered as provided in this Section.

B. Content

All mail, personal and newspaper notices for public hearings shall:

1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, variance, appeal, ordinance interpretation or other purpose.
2. Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).
4. Written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. Handicap access. Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

C. Personal and Mailed Notice

1. General

When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

- a. The owners of property for which approval is being considered, and the applicant, if different than the owners(s) of the property.
- b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real

property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the townships. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive the notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- c. For requests for interpretation or appeals of administrative decisions, to the person requesting an interpretation of the zoning ordinance or to a person appealing an administrative decision.
- d. In the case of a zoning ordinance amendment, or rezoning, each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

2. Notice by mail/affidavit

Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

D. Timing of Notice

Unless otherwise provide in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

- 1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation; not less than fifteen (15) days before the date the application will be considered for approval.
- 2. For any other public hearing required by this Ordinance: not less than

fifteen (15) days before the date the application will be considered for approval.

3. A notice will not be published unless/until the information required is complete and the appropriate fee is paid.

Section 14.14 Ordinance as Controlling

Except as otherwise provided under this Act, and ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.....MCL 125.310.