

ARTICLE XX ADMINISTRATION

Sec. 2000. Enforcement:

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator or by such deputies of his department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

Sec. 2001. Duties of Zoning Administrator:

The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Section 1802.

The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

Sec. 2002. Plot Plan:

The Zoning Administrator shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- A. The actual shape, location and dimensions of the lot, drawn to scale.
- B. The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot drawn to scale.
- C. The existing and intended use of the lot and of all such structures upon it, including, in residential area, the number of dwelling units the building is intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

Sec. 2003. Permits:

The following shall apply in the issuance of any permit:

- A. Permits not to be Issued:** No building permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance.
- B. Permits for New Use of Land:** No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a building permit is first obtained for the new or different use.
- C. Permits Required:** No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by a Township Building Code, the Housing Law of Michigan or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features. Permits shall not be required for the erection of farm buildings which are not for human habitation.

Sec. 2004. Final Inspection:

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

Sec. 2005. Certificates:

No land, building, or part thereof, shall be occupied by or for any use for which a building permit is required by this Ordinance, unless and until a Certificate of Occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate.

- A. Certificates not to be issued:** No certificates of occupancy pursuant to an effective and applicable Building Code shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.
- B. Certificates Required:** No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a Certificate of Occupancy shall have been issued for such building or structure.
- C. Certificates Including Zoning:** Certificates of occupancy as required by an effective Township Building Code for new buildings or structures shall also constitute Certificates of Occupancy as required by this Ordinance.
- D. Certificates for Existing Buildings:** Certificates of Occupancy will be issued for existing buildings, structures, or parts thereof, or existing uses of land, if after inspection it is found that such buildings, structures, or parts thereof, of such use of land, are in conformity with the provisions of this Ordinance.
- E. Temporary Certificates:** Nothing in this Ordinance shall prevent the issuance of a temporary Certificate of Occupancy for a portion of a building or structure in

process of erection or alteration, provided that such temporary Certificate shall not be effective for a period of time in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.

- F. Records of Certificates:** A record of all certificates issued shall be kept on file and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- G. Certificates for Dwelling Accessory Buildings:** Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.
- H. Application for Certificates:** Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms furnished by the Township and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance.
If such certificate is refused for cause, the applicant therefore, shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

Sec. 2006. Fees:

- A.** To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a Fee Schedule establishing basic zoning fees related to the following:
 - 1. Zoning certificates.
 - 2. Special use permits.
 - 3. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning and Zoning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - 4. Classification of unlisted property uses.
 - 5. Requests to change a nonconforming use to another nonconforming use.
 - 6. Requests for variances from the Zoning Board of Appeals.
 - 7. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning and Zoning Commission, the Zoning Board of Appeals, or the Zoning Administrator shall not be subject to a zoning fee.
 - 8. Site plan reviews.
 - 9. Requests for a planned unit development (PUD).
 - 10. Any other discretionary decisions by the Planning and Zoning Commission, Zoning Board of Appeals, or Township Board.
- B.** 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 and Zoning 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 the applicant withdraws an application or appeal.

- C. If the Zoning Administrator, Planning and Zoning 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 Zoning Administrator, Planning and Zoning 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 Zoning Administrator 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 and Zoning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator 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 Township 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 certificate or prior to the final decision on an appeal.

Sec. 2007. Interpretation, Purposes and Conflict:

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comforts, morals, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such Ordinance or agreements, the provisions of this Ordinance shall control.

Sec. 2008. Changes and Amendments:

The Township Board may from time to time, on recommendation from the Planning and Zoning Commission or on petition, amend, supplement, or change the District boundaries or the regulations herein, or subsequently established herein, pursuant to the authority and procedures established in Act 110 of the Public Acts of 2006, as amended. In reviewing an application for the rezoning of land, factors that should be considered by the Planning and Zoning Commission and the Township Board include, but are not limited to:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Comprehensive Plan.
- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use under the requested rezoning.
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

Sec. 2009. Validity:

This Ordinance and the various parts, articles, sections, subsections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

Sec. 2010. Violations and Penalties:

- A. The violation by any person, persons, firm, corporation, or association, or by anyone acting on behalf of any such person, persons, firm, corporation, or association, of any provision of this Ordinance is hereby designated as a municipal civil infraction.
- B. The Alpena Township Supervisor, the Alpena Township Building Inspector, the Alpena Township Zoning Administrator, and deputies of the Alpena Township Zoning Administrator's department who are designated by him to enforce the provisions of this Ordinance are hereby designated as authorized local officials who shall administer and enforce this Ordinance and who are authorized to issue municipal civil infraction citations.
- C. "Municipal Civil Infraction" means a civil infraction as defined by Section 113 of the Revised Judicature Act of 1961, being Act No. 236 of the Public Acts of 1961, as amended (the Act), involving a violation of this Ordinance.
- D. "Citation" means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of one or more municipal civil infractions by the person, form, corporation, or association cited (the "defendant").
- E. "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

- F. A municipal civil infraction action may commence upon the issuance by an authorized local official of a citation directing the defendant to appear in court.
- G. A citation shall be issued and served by an authorized local official in accordance with provisions of Section 8707 and 8709 of the Act.
- H. A citation shall contain the information required under Section 8709 of the Act.
- I. An authorized local official may issue a citation to a defendant if the official witnesses a defendant commit a violation of this Ordinance; or if, based upon investigation, the official has reasonable cause to believe that the defendant committed a violation of this Ordinance, or based upon investigation of a complaint by someone who allegedly witnessed the defendant commit a violation of this Ordinance, the official has reasonable cause to believe that the defendant is responsible for a violation of this Ordinance, and if the Township Attorney approves in writing the issuance of the citation.
- J. Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to 90 days in jail and/or up to a \$500.00 fine plus costs of the prosecution, and will result in entry of a default judgment against the defendant on the municipal civil infraction.
- K. A defendant found responsible by the judge or magistrate for a violation of this Ordinance shall pay a fine not to exceed \$500.00 plus costs of not less than \$9.00 nor more than \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order necessary to enforce this Ordinance, in accordance with Section 8302 of the Act.
- L. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of the Act within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of the Act, as applicable.
- M. If a defendant does not pay a civil fine or costs or an ordered installment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated into or attached to the court order. A lien is effective immediately upon recording of the court order with the register of deeds. The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the Township by first-class mail to the owner of record of the land, building, or structure at the owner's last known address. The lien may be enforced and discharged by the Township in the manner prescribed by Section 8731 of the Act.

- N. Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to the applicable fine, costs, penalties, and sanctions as a separate offense.
- O. In addition to any remedies available by law, the Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this Ordinance.