

Chapter 9 ■ Administration & Enforcement

SECTION 9.1 PEOPLE INVOLVED IN THE ZONING PROCESS

The provisions of this Ordinance shall be carried out by the Lee Township Planning Commission, the Zoning Board of Appeals, the Township Board and the Township Zoning Administrator or designee in conformance with applicable State of Michigan enabling legislation.

a. ZONING ADMINISTRATOR OR DESIGNEE:

The Township Board, with the recommendation of the Planning Commission, may employ a Zoning Administrator or designee to carry out day-to-day administration and enforcement of this Ordinance. The Zoning Administrator shall also serve as the liaison between the public and the Planning Commission and as a liaison between the Planning Commission and the Township Board and shall assist the Planning Commission as a non-voting participant during commission meetings. Conditions of the Zoning Administrator or designee's employment, including compensation, shall be established by the Township Board. Additional staff may be employed, under the supervision of the Zoning Administrator or designee, to assist with administration and enforcement of this Ordinance.

The Zoning Administrator or designee's duties shall include the following items and any other tasks that may be assigned by the Township Board or provisions of this Ordinance:

- 1) ACCEPT AND RECORD APPLICATIONS, ISSUE AND RECORD SPECIAL USE PERMITS. All applications for site plans shall be submitted to the Zoning Administrator or designee who shall keep a record of all applications that have been submitted and their disposition. When all applicable provisions of this Ordinance have been met regarding any application, the Zoning Administrator or designee shall allow a zoning permit to be issued for the proposed use. When conditions are not met, the Zoning Administrator or designee shall consult with the applicant to determine the proper course of action. The Zoning Administrator or designee shall maintain a record of all applications, including documentation for each.
- 2) ISSUE WRITTEN DENIAL. When any application for a site plan is denied, the Zoning Administrator or designee shall provide the applicant with a written denial, stating the reasons for the denial.
- 3) INSPECTIONS. The Supervisor or the Township Code Enforcement Officer shall be empowered to make inspections of buildings or premises to carry out enforcement of this Ordinance.
- 4) RECORD NONCONFORMING USES. The Zoning Administrator or designee shall record all nonconforming uses existing at the effective date of this Ordinance.
- 5) RECORD SPECIAL USES. The Zoning Administrator or designee shall keep a record of all Special Use Permits issued under the terms of this Ordinance.

6) RECORD INTERPRETATIONS OF ORDINANCE. The Zoning Administrator or designee shall maintain a concise record of all interpretations of this Ordinance rendered by the Zoning Board of Appeals. Interpretations of the Ordinance do not include dimensional or administrative issues. This record shall be consulted whenever questions arise concerning interpretation of any provision of this Ordinance to determine whether any applicable precedents have been set.

7) PUBLIC INFORMATION. The Clerk or Supervisor shall respond to inquiries and dispense information or copies of this Ordinance to make the public aware of and familiar with the provisions of this Ordinance. Public awareness and acceptance of the Zoning Ordinance will help to maintain compliance with it.

8) RESPOND TO COMPLAINTS. Respond to written complaints to the extent as set forth in Section 9.3.

9) MAY NOT CHANGE ORDINANCE. Under no circumstances is the Zoning Enforcement Officer permitted to make changes in this Ordinance or to vary the terms of this Ordinance.

b. PLANNING COMMISSION:

1) MEMBERSHIP. The Planning Commission shall be composed of five (5) members, comprised of

a) One member of the Township Board appointed by the Supervisor and approved by a majority of members elected to the Township Board, as an ex officio member, and

b) Four residents of the Township, representing, insofar as possible, different professions or occupations, who shall be appointed by the Township Supervisor, subject to the approval of a majority of the members elected to the Board.

2) TERMS OF OFFICE. The term of service for each member shall be three (3) years. This limitation does not apply to the ex officio member, who term of service expires with his or her term of office. Rotation of membership is encouraged.

3) RULES OF PROCEDURE. The Planning Commission shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Commission shall choose its Chairperson, Vice chairperson and Secretary.

4) FUNCTION: The duties of the Planning Commission shall be as outlined in Public Act 110 of 2006, commonly known as the Michigan Zoning Enabling Act, and where applicable in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended.

5) MEETINGS. The Planning Commission shall meet monthly or as determined by the Township Board and Planning Commission, no less than four times per year, and by resolution shall determine the time and place of meetings. All meetings shall be properly noticed and open to the public.

- 6) PER DIEM OR EXPENSES. Members of the Planning Commission may be compensated for their services as provided by the Township Board. The Township Board may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Planning Commission.
- 7) MASTER PLAN. The Planning Commission shall make and adopt a master plan as a guide for the development of the Township. Plan contents, adoption, amendment, approval by the Township Board, hearing and publication shall be according to the Michigan Zoning Enabling Act, PA 110 of 2006, as amended and where applicable in the Michigan Planning Enabling Act, PA 33 of 2008, as amended..
- 8) ZONING ORDINANCE. The Zoning Ordinance shall be based on a plan designed to promote the public health, safety, and general welfare.
- 9) ADMINISTRATION AND ENFORCEMENT. The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:
 - a) SITE PLAN APPROVAL. The Planning Commission shall review Formal Site Plans and issue its approval, conditional approval or denial as set forth in Section 8.2 of Chapter 8.
 - b) SPECIAL USE PERMITS. The Planning Commission shall conduct a public hearing on any application for a Special Use Permit. Following a public hearing, the Planning Commission shall review and approve or deny an application and shall also take any necessary action to revoke a Special Use Permit.
 - c) REZONING OR TEXT AMENDMENT. The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this Ordinance. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Township Board. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and Township Board approval.
- c. TOWNSHIP BOARD. On recommendation of the Planning Commission, the Township Board shall decide to adopt or amend the text or zoning districts of the Zoning Ordinance, making it the enforceable policy of Township government. The Township Board may review all zoning decisions of the Planning Commission. The Township Board shall, by resolution, set fees to be charged for any administrative action under this Ordinance and may also act to waive any fee.

SECTION 9.2 BUILDING PERMIT PROCESSES

- a. APPLICATION: Before proceeding with the erection, alteration, moving or use of any building or structure, or the use of any premises subject to the provisions of this Ordinance, the owner thereof shall obtain a Building Permit after obtaining Site Plan approval as

required in Chapter 8. Applications shall be made in writing upon forms provided by the Township or the Township Code Authority. It shall be the duty of all architects, contractors, and other persons having charge of erection or movement to determine that the necessary site plans and permits have been issued before undertaking any such work, and all persons performing such work in violation shall be deemed guilty of violation in the same manner as the owner of the premises.

- b. **BUILDING PERMIT REQUIRED:** A building permit must be obtained from the Township Code Authority before any of the following activities may legally take place:
- 1) Occupancy and use of vacant land (including parking lot construction).
 - 2) Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building that requires issuance of a Building Permit by the Building Inspector.
 - 3) Any use of land or a building that would be identified as a Use by Special Use Permit by the Uses Table in Chapter 3, District Regulations, for the Zoning District in which the parcel is located.
 - 4) Any change of a nonconforming use or building.

SECTION 9.3 ENFORCEMENT

Allegations of a violation of this ordinance must be made in writing by a resident of Lee Township to the Township Supervisor or the Township Zoning Administrator on a form approved by the Township Board. A copy of the written complaint will be kept on file with the township. It is the township's position that the written complaint is exempt from the disclosure requirements of the Michigan Freedom of Information Act and will only be released by the township upon a receipt of a valid court order directing the disclosure. See MCL §15.243.

Upon a receipt of the written complaint, the Township Supervisor and Township Zoning Administrator shall confer to determine whether a credible allegation has been made of a potential violation of this ordinance by a resident. If a determination is made that the allegation is not credible and/or has not been brought by a resident of Lee Township, no further action will be taken by the township and a note will be made of the disposition on the written complaint. If the Township Supervisor is satisfied that a credible allegation has been made by a Lee Township resident, the Code Enforcement Officer will be directed to conduct an investigation.

- a. **INFORMAL PROCEEDINGS.** Upon being informed of the nature of the alleged violation by either the Township Supervisor or Township Zoning Administrator, the Code Enforcement Officer, shall investigate the allegation and make a good faith effort to initiate contact with the owner(s) of the parcel where the purported violation exists.

Upon making a reasonable effort to initiate contact with the parcel owner and a determination having been made by the Code Enforcement Officer that a violation of this ordinance likely exists, written notice shall be given by the Code Enforcement Officer to the parcel owner that a preliminary determination has been made that a violation of the ordinance exists, and that the parcel owner has thirty (30) days to bring the parcel

into compliance with the ordinance. The notice shall describe the nature of the violation along with the steps needed to bring the parcel into compliance.

A copy of the notice shall be hand-delivered to the parcel owner if reasonably possible. If hand-delivery is not reasonably possible, a copy of the notice shall be mailed to the last known address of the parcel owner as set forth in the township's property tax records.

If the parcel owner disputes the existence of a violation of the ordinance, then the Code Enforcement Officer shall make a reasonable effort to meet with the parcel owner with the Township Supervisor to ascertain the validity of the parcel owner's denial. If the Township Supervisor and Code Enforcement Officer are both satisfied that a violation does not exist, then no further action will be taken by the township and a notation will be made on the written complaint administratively closing the complaint. If there remains a concern that a violation exists, the Code Enforcement Officer will again afford the parcel owner an opportunity to bring the parcel into compliance.

The deadline for bringing the parcel into compliance can be extended by the Code Enforcement Officer upon a showing of good cause. If the violation is addressed by the parcel owner by the deadline(s) set by the Code Enforcement Officer, no further action shall be taken by the township and no costs or fees shall be charged to the parcel owner. A notation will be made on the written complaint of the resolution. Conversely, the Code Enforcement Officer shall inform the Township Supervisor of the ongoing nature of the violation if not addressed by the deadline.

- b. FORMAL PROCEEDINGS. Upon notice being provided to the Township Supervisor by the Code Enforcement Officer of the ongoing nature of the violation, a special meeting shall be set by the Township Board at its earlier convenience with at least seven days advance notice of the special meeting being provided to the owner of the parcel wherein the suspected violation exists. During the special meeting, the Township Board shall conduct a hearing and shall make a determination as to whether or not the conditions on the parcel in question constitute a violation of the ordinance. Upon a showing of good cause, the date and/or time of the special meeting may be adjourned for a reasonable period of time to a date & time mutually agreeable to the Township Board and the parcel owner.

During the hearing, the parcel owner or owner's legal representative, shall be afforded the opportunity to present evidence and argument to the Township Board. The Township Board may also consider testimony and evidence provided by the Code Enforcement Officer along with testimony from witnesses of the alleged violation. The Code Enforcement Officer will have the burden of proof of establishing the existence of a violation by the preponderance of the evidence; however, the Michigan Rules of Evidence will not apply at the hearing. Once the hearing is held, a detailed record of the hearing shall be summarized in reasonable detail along with the factual findings and conclusions by the Township Board in the meeting minutes.

The parcel owner may choose to retain a stenographer to record the hearing at the parcel owner's expense and, if a certified transcript is prepared and provided to the township, the Township Clerk shall accept for filing with the minutes a copy of the transcript.

If a determination is made by the Township Board that a violation of the ordinance exists, the Township Board shall, in writing, apprise the parcel owner as to how to bring the parcel into compliance with the ordinance and provide a reasonable time therefor. The reasonable time afforded shall be no less than thirty (30) days. If the parcel has been brought into compliance by the deadline set by the Township Board, no further action shall be taken by the township and no costs or fees shall be charged to the parcel owner.

REMEDIES INCLUDING COURT ACTION. If the parcel has not been brought into compliance by the deadline set by the Township Board, the Township Board may authorize initiation of an action in a court of competent jurisdiction in Midland County to obtain an order authorizing the township and its agents to enter upon the property to bring the parcel into compliance with the ordinance. A violator of this ordinance shall also be subject to such additional sanctions, attorney fees, remedies, and judicial orders as authorized under Michigan law.

To the extent permitted by law, all expenses incurred by the township in bringing the parcel into compliance with the ordinance may also be charged to the owner of the parcel. If the parcel owner fails to pay the expenses incurred by the township within sixty (60) days after the statement for said charges is mailed to him or her, the amount thereof may, at the discretion of the Township Board, be assessed against the parcel on which the expenditures were made on the next general tax assessment roll of the township and shall be collected in the same manner as other taxes are collected. The township shall have a lien upon such lands for such expense, such lien to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

The Township Board may also authorize the issuance of a citation by the Code Enforcement Officer. Violations of any provisions of this ordinance are declared to be enforceable as a municipal civil infraction through the 75th District Court and are subject to a payment of a civil fine of a minimum of One Hundred (\$100) DOLLARS and no more than Five Hundred (\$500) DOLLARS for each infraction. Each day a violation exists shall constitute a separate infraction. A failure to address the civil infraction may constitute contempt of the Court pursuant to MCL §600.1715 (2).

- c. **CONFLICTING REGULATIONS.** In the interpretation, application, and enforcement of the provisions of this Ordinance, whenever any of the provisions or limitations imposed or required by this Ordinance are more stringent than any other law or Ordinance, then the provisions of this Ordinance shall govern, provided also that whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such other law or Ordinance shall govern.

SECTION 9.4 AMENDMENTS

Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by Public Act 110 of 2006, as amended, for the enactment of the original Ordinance. It shall be necessary to publish only a summary of the section or sections to be amended to the Ordinance.

- a. INITIATION OF AMENDMENTS. Proposals for amendments, supplements, or changes may be initiated by the Township Board of its own action, by the Planning Commission, or by petition of one (1) or more persons having an interest, by ownership or option to purchase, in property to be affected by the proposed amendment.
- b. AMENDMENT PROCEDURE:
 - 1) PETITION TO TOWNSHIP CLERK AND PAYMENT OF FEE. Each petition by one (1) or more owners or their agents for an amendment shall be submitted upon an application provided by the Township to the Township Clerk. A fee as established by the Township Board shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request. The Township Clerk shall transmit the application to the Planning Commission for recommended action.
 - 2) RECOMMENDATION. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.
 - 3) PUBLIC HEARING. Before voting on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing.
 - 4) Amendments or supplements to the zoning ordinance shall be made in the same manner as provided under this act for the enactment of the original ordinance.

SECTION 9.5 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS

- a. If the Township is required to provide notice and hearing under the Michigan Zoning Enabling Act, the Township shall publish notice of the request in a newspaper of general circulation in the community.
- b. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. Notification to the aforementioned property owners shall be based upon the current tax rolls.
- c. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:
 - 1) Describe the nature of the request.
 - 2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.

- 3) State when and where the request will be considered.
 - 4) Indicate when and where written comments will be received concerning the request.
- d. If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the planning commission shall give a notice of the proposed rezoning in the same manner.
 - e. If 11 or more adjacent properties are proposed for rezoning, the planning commission shall give a notice of the proposed rezoning in the same manner as required in this section, except no individual addresses of properties are required to be listed.