

## Article 16 Administration and Enforcement

### **Section 16.1 Purpose Statement**

It is the intent of this Article to establish the roles and responsibilities of those involved in administration of this Zoning Ordinance, to provide for issuance of zoning permits, to establish rules for enforcement of this Ordinance, and to establish penalties for its violation. [18-9] [G-1]

### **Section 16.2 Zoning Administrator**

The Office of the Zoning Administrator is hereby established. The Zoning Administrator shall be appointed by the Township Board and shall serve at its pleasure. The Zoning Administrator shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer (not elected official) of the Township of Kenockee.

- A. The Zoning Administrator shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body.
- B. Make determinations on the Ordinance as needed to enforce the Zoning Ordinance. [G-1]
- C. Review and approve zoning permits, change of use or for any improvements other than for single family dwellings and accessory structures on existing lots.
- D. Conduct inspections for zoning compliance.
- E. Review site plans for compliance, determine type of review required, and forward to necessary parties and Planning Commission as needed.
- F. Maintain copies of approved site plans, special land uses, variances, appeals, interpretations, rezoning, and text amendments.
- G. Maintain an updated zoning map.
- H. The Zoning Administrator shall have no power to vary or waive Ordinance requirements, unless otherwise stated. [18-1]

### **Section 16.3 Zoning Compliance Permits**

- A. A zoning compliance permit must be obtained from the Zoning Administrator as applicable before:
  1. Any construction is undertaken;
  2. Any structure is moved;
  3. A structure is moved on to any parcel; and
  4. A zoning permit must be obtained from the Planning Department before any change in the use of any land or structure or change in occupancy is undertaken. [G-1]

- B. A zoning compliance permit shall be applied for in writing on an application form provided by the Township. The application will include a plot plan of the subject parcel adequate to determine compliance with this Ordinance. Information to be provided includes: [G-1]
1. Description of the proposed use;
  2. Property lines;
  3. Existing or proposed buildings or structures, parking spaces, driveways, etc. with dimensions; and
  4. Gross floor area of building and tenant space. [G-1]
- C. The following are the standards for approving a zoning compliance permit:
1. Complies with provisions of this Ordinance, such as uses allowed in the district, number of parking spaces, and loading spaces.
  2. Any necessary Planning Commission, Zoning Board of Appeals, Township Board, or other local, county, state, or federal approvals have been obtained.
  3. When a structure shall be moved, the site from which the structure has been moved shall be graded level and all debris shall be cleared away. [18-2]
- D. No Zoning Permit shall be issued where it appears that any land area required to conform to any provision of this Ordinance is also required as a part of any adjoining property to keep the development of use thereof in conformity with this Ordinance, or to keep it from becoming more nonconforming, if such land area was, at any time subsequent to the start of development or use of such adjoining property, in common ownership with such adjoining property.
- E. Revocation of any Zoning Permit based on any material false statement in the application or supporting documents is absolutely void ab initio and shall be revoked.
- F. No zoning permit shall remain valid if the use of structure it authorized becomes nonconforming. [G-1]
- G. A zoning permit shall expire one (1) year after the date of issuance unless the applicant has been issued a building permit. For zoning permits that do not involve construction such as a permit approving the change in the use of a building, the permit shall expire one (1) year after the date of issuance, unless the proposed use has been commenced within that period. [18-2] [G-1]

#### ***Section 16.4 Establishing Grades***

In establishing the grade on a lot or parcel for the purpose of any construction thereon, the following conditions shall control:

- A. Where there is existing development in the area or where the adjacent lands are subdivided, the grades about the new development or construction shall be set to conform to the grades of existing development or subdivision.
- B. All new development shall be accomplished so as to contain all runoff on the site or direct runoff to storm facilities without crossing abutting land. [16-3]

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- C. For types of construction other than single family dwellings and farm buildings, where the grade on a site is in any way to be increased above existing grade, the owner of the property shall, upon application for a building permit, submit a certification signed and sealed by a Registered Land Surveyor or a Civil Engineer licensed to practice in the State of Michigan stating the existing and proposed grades and that conditions set forth in items A and B are met. This certification shall be accompanied by a drawing which contains at least the following information:
1. A property line survey showing lot shape and dimension, drawn to a scale of at least 1 inch = 30 feet. [G-1]
  2. A topographic map shall be drawn (may be superimposed on item a. above) at a contour interval of not greater than one (1) foot. Elevations of abutting properties and the crown of abutting road pavement shall be shown.
  3. Proposed changes in grade shall be shown through the use of proposed contour lines.
  4. The first floor elevation of the proposed construction shall be shown.
  5. Fees for inspection of the new grade shall be paid at the time of application for a permit and the amount of such fees shall be established by a resolution of the Township Board and shall cover the cost of the inspection plus administrative expenses.[16-3]

#### ***Section 16.5 Certificate of Occupancy***

- A. No permanent Certificate of Occupancy shall be issued under the building code of the Township of Kenockee until all requirements of this Ordinance have been met. A temporary certificate may be issued under circumstances where expressly permitted by this Ordinance. [18-3]
- B. In cases where Certificate of Occupancy are not required under the Building Code, such as in the case of farm buildings, the Building Inspector and Zoning Administrator shall nevertheless issue a Certificate of Occupancy for zoning purposes certifying that the structure or use has been established or erected in compliance with the terms of the Building Permit and/or approved site plan. [18-4] [G-1]

#### ***Section 16.6 Permit Fees***

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance including for site plan review, special land use, variances, rezoning, etc. shall be collected by the appropriate inspector in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

#### ***Section 16.7 Performance Guarantees***

- A. To ensure compliance with a Zoning Ordinance and any conditions imposed thereunder, the Township Board after recommendation from the Township Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of

improvements associated with a project for which site plan approval is sought be deposited with the Clerk of the Township to insure faithful completion of the improvements. The Building Inspector shall estimate the cost of the improvements. [G-1]

The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township may not require the deposit of the performance guarantee prior to the time when the Township is prepared to issue the permit. The Township shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

- B. This Section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended.
- C. As used in this Section, "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval in order to protect natural resources, the health, safety, and welfare of the residents of the Township, and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

If any portion of the required improvements is not completed or does not meet construction standards within the allocated time period, the Planning Commission shall declare whatever security has been pledged as forfeit. Where the Planning Commission is not already in possession of said guarantee, it shall immediately take the actions necessary to obtain it. Upon receipt of these securities, the Planning Commission shall use them, or receipts from their sale if that be necessary, to finance the completion of contracted improvements or the rebuilding of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company, or crediting institution, as is appropriate.

- D. Upon acceptance of the final portion of improvement, the Township shall authorize the release of the remaining portion of the performance guarantee. The Certificate of Occupancy may be withheld until all aspects of the approval have been implemented. [18.07] [G-1]
- E. No action or inaction by Kenockee Township in respect to any required improvement shall serve to extend the time of validity of any Temporary Certificate of Occupancy or excuse any violation of this Ordinance. A Temporary Certificate of Occupancy may, however, be extended in time, and from time to time, for good cause shown. Any such extension shall serve to extend for the same period the time for completion of the required site improvements.

#### ***Section 16.8 Public Notice Procedure***

The Zoning Administrator or Township Clerk shall prepare the notice for the public hearing. Below is the process when a public hearing is required unless otherwise noted:

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- A. Notice of the public hearing a notice in a newspaper of general circulation in the Township at least fifteen (15) days before the date of the public hearing.
- B. Notice to the residents and property owners of all parcels within 300 feet of the subject parcel regardless of whether or not the parcels are located in Kenockee Township. [G-1]
- C. Notice to the neighboring Planning Commission shall be provide by the Zoning Administrator when the subject parcel in Kenockee Township is within 300 feet of the Township's boundary. [G-1]
  1. The notice shall contain the following:
    - a. Describe the nature of the request.
    - b. Where the request involves a specific parcel of property, the notice will 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, the tax parcel ID of the property and description of its location shall be used. [G-1]
    - c. State when and where a copy of the request can be viewed.
    - d. State when and where the request will be considered.
    - e. Indicate when and where written comments will be received concerning the request. [18-7]

***Section 16.9 Requirements for Single Family and Two Family Dwellings and Farm Buildings***

Single family dwellings, two family dwellings, and farm buildings are exempt from the site plan review requirements set forth in this Ordinance. However, in order to ensure that lot and setback requirements are complied with, all applications for Building Permits and Zoning Compliance Permits shall be accompanied by a plot plan, in triplicate, drawn to scale, showing the following: [G-1]

- A. The actual shape, location, and dimensions of the lots.
- 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.
- C. The existing and intended use of the lot and of all such structures upon it, including in residential areas, 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 served.

***Section 16.10 Mobile Home as Temporary Use***

The Zoning Administrator shall permit the owner of any premises zoned Agricultural or Residential to move not more than one mobile home upon such premises and utilize same for residence purposes during the actual construction of a permanent dwelling thereon, but not for a period to exceed one (1) year beginning with the issuance of a permit for construction of said permanent dwelling. Application may be made for one (1) year

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extension which shall not be unreasonably denied if construction on the permanent dwelling is progressing substantially. The Township Board shall require said owner to furnish a financial guarantee in a sum equal to the cost of removing said mobile home from the premises and demolition of any partially completed structures on the premises which are not suitable for occupancy. Such financial guarantee may be in the form of a surety bond, irrevocable bank letter of credit, or cash.

- A. All occupied mobile homes shall be connected to a suitable source of potable water and shall be connected to a sewage disposal system, both approved by the County Health Department (987 5306). Mobile homes not connected to approved water and sewer facilities shall not be occupied under any circumstances.
- B. Only mobile homes which meet the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bear the official seal verifying same shall be suitable for occupancy.
- C. Permits for the placement of a mobile home on a temporary basis must be obtained from the Kenockee Building Inspector. An applicant must be filed with the Township Clerk stating the nature of the request together with a site plan drawn to scale showing the location of all existing and proposed structures including dimensions with respect to the property lines and any rights-of-way. [G-1]
- D. If the mobile home is removed from the premises within the prescribed time, the bond shall be returned to the applicant together with interest thereon. [G-1]
- E. If the mobile home is not removed from the premises within thirty (30) days of the end of the permitted time period, the owner shall forfeit the bond and the Township shall cause the mobile home to be removed. [G-1]

A mobile home may also be used as a temporary dwelling for occupancy in the Agricultural District by an invalid relative on the same lot as an existing permanent home occupied by the family members providing the care and supervision. All provisions of letters A-E above shall apply and the Township Board shall require such owner to furnish a financial guarantee in a sum equal to the cost of removing said mobile home from the premises and demolition of any partially completed structures on the premises which are not suitable for occupancy. [G-1]

***Section 16.11 Enforcement, Penalties, and Other Remedies [18-8 & 23-1] [G-1]***

- A. Violations. All violations of this Ordinance shall be civil infractions, and upon conviction thereof, shall be punishable by a fine of not more than Five Hundred (\$500.00) Dollars. [G-1]
  1. No Exemption from Compliance. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance.
  2. Other Appropriate Relief. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
  3. Each Day a Separate Offense. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues. [G-1]

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4. Rights and Remedies are Cumulative. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
- B. The Zoning Administrator/Enforcement Officer shall inspect each alleged or apparent violation. Whenever the Zoning Administrator/Enforcement Officer determines that a violation of this Ordinance exists, said Zoning Administrator/Enforcement Officer shall issue a Notice of Violation which specifies all circumstances found to be in violation. [23-3] [G-1]
- C. Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records. [23-3] [G-1]
- D. All violations shall be corrected within a period of thirty (30) days after the violation notice is issued, or in such longer period of time, not to exceed three months, as the Zoning Administrator shall determine necessary and appropriate. [23-3] [G-1]
- E. Public Nuisance Per Se
- Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se to public health, safety, and welfare, and may be abated by order of any court of competent jurisdiction.
- F. Owner's Liability
- The owner of any building, structure, or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and shall be liable to the fines and costs of prosecution herein provided. [G-1]
- [23-4][25-5]