

## CHAPTER 19

### ADMINISTRATION AND ENFORCEMENT

#### Section 19.01 - ZONING PERMIT REQUIRED

It shall be unlawful for any person to commence excavation for, or construction of any building, structure or parking area, or to make structural change, alteration or addition in any existing building or structure or relocate any building or structure without first obtaining a zoning permit from the Zoning Administrator. No permit shall be issued for the construction, alteration, addition or relocation of any building or structure until an application has been submitted showing that the construction proposed is in compliance with the provisions of this Ordinance and any required zoning permit fees paid. No plumbing, building, health, electrical or drainage permit shall be issued until the Zoning Administrator has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this Ordinance, and paying the permit fee therefore as established by the Township Board.

Exception to the above requirement of a zoning permit for construction or relocation:

- A. Accessory structures not exceeding one hundred (100) square feet and having no permanent foundation provided however that such building shall be placed in accordance with Section 2.06.
- B. Decks, porches, and patios not exceeding 150 square feet and less than 12 inches above grade and having no permanent foundation, providing however that such Structure shall be placed in accordance with Section 2.06.

#### Section 19.02 - ADMINISTRATIVE OFFICIALS

Except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance including the receiving of applications, the inspection of premises, the issuing of zoning permits, and the institution of proceedings for enforcement of the provisions of this Zoning Ordinance. Relative to the issuance of a permit, any decision rendered by the Zoning Board of Appeals, Planning Commission, or Township Board on a matter required to be reviewed by that body shall be binding on the Zoning Administrator.

#### Section 19.03 - PERMITS

Every application for a zoning permit shall be made as required by the Zoning Ordinance and shall designate the existing or intended use of the structure or premises, or part thereof which it is proposed to alter, erect, or extend, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two (2) prints or Photostat copies of the drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications. The application shall contain other information with respect to the lot and adjoining property as may be required by the Zoning Administrator. One (1) copy of both plans and specifications shall be filed in and retained by the Office of the Zoning Administrator, and the other shall be delivered to the applicant when the Zoning Administrator has approved the application and

issued the permit. In cases of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance. Any permit required by this Zoning Ordinance of the Township shall be displayed face out, within twenty-four (24) hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest roadway, and shall be continuously so displayed until all work, or the term for which issued, or purpose for which issued, is completed. Failure to obtain and display any such permit shall constitute a violation of the Zoning Ordinance and shall subject each person or persons or corporations for whose benefit the permit is required, and the owner or owners of the premises involved to prosecution for such violation.

Every permit granted under this section shall become null and void unless the excavation, construction, alteration, erection or extension shall have been commenced within twelve (12) months from the date of issuance of the permit; and every permit so granted shall further become null and void unless all exterior aspects of the construction, alteration, erection or extension shall have been completed within eighteen (18) months from the date of issuance of the permit. However, an extension of time for the commencement of construction or for the completion of construction can be granted by the Zoning Administrator upon proof that an extension of time is justified.

#### Section 19.04 - OCCUPANCY

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected, until the Zoning Administrator shall have made an inspection of the premises and signed a Certificate of Occupancy. The Zoning Administrator shall not sign a Certificate of Occupancy until he has ascertained that there has been compliance with all the requirements of this Ordinance and substantially all of the approved plans of the building.

#### Section 19.05 - ENFORCEMENT

All premises affected by this Ordinance shall be subject to inspection by the Zoning Administrator and the Administrator may collect such investigative data as he deems necessary for the enforcement of this Ordinance. No person shall refuse to permit the Administrator to inspect any premises at reasonable times, nor shall any person molest or resist the Administrator in the discharge of his duties.

#### Section 19.06 - AMENDMENTS

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

##### A. Procedure

1. The Planning Commission may propose amendments on its own initiative.
2. Any resident or land owner of the Township may bring before the Planning Commission a proposed amendment or change by filing a petition signed by all persons having an interest in such premises to be acted upon requesting the adoption of any specified amendment or change or regulation under the Zoning Ordinance. If the proposed amendment pertains to rezoning, such application or petition shall be accompanied by a development plan as provided in C of this Section. The Township Clerk shall file the

same with the Secretary of the Planning commission within ten (10) days of the date the petition was filed with the clerk.

B Contents of Application -The Application requesting a proposed amendment or change shall contain the following:

1. The legal description of the premises involved.
2. The zone in which such premises are presently situated.
3. The zone into which applicant desires such premises to be situated.
4. The use to be made of such premises if rezoned.
5. The signatures of all persons having an interest in such premises.

C. Contents of Development Plan - If the proposed amendment pertains to rezoning, the petition shall be accompanied by a development plan which shall include the following:

1. A topographic map showing existing and proposed contour lines at five (5) foot intervals.
2. A plot plan which shall show the following:
  - a. Location of all buildings.
  - b. Drawings showing the elevations and architectural style thereof.
  - c. All non-enclosed uses.
  - d. All drainage.
  - e. Parking.
  - f. Loading and traffic handling facilities.
  - g. Screening and other landscaping.
  - h. All exterior lighting and signs.
  - i. Sewage disposal systems.

Such portions of the development plan may be waived by the Planning Commission if, because of the nature of the proposed use, the same would be unnecessary and serve no useful purpose.

D. Fees - The required fees for rezoning premises are a part of the cost of the rezoning action and are in addition to other zoning permit fees. The fees as established in the Elk Rapids Township

Fee Resolution Schedule must accompany any application filed for the purpose of rezoning any property.

- E. Action on Application by Planning Commission - Said application shall be considered by the Planning Commission at its next meeting following the receipt thereof by its Secretary, provided, however, that there is adequate and sufficient time for giving any public notices required by law. The Planning Commission may recommend to the Township Board, modification, rejection or the adoption of said proposal either in its original or changed form.
- F. Duties of Planning Commission and Township Board
  - 1. Before submitting its recommendations of a tentative rezoning plan to the Township, the Planning Commission shall hold at least one (1) public hearing.
  - 2. When an application for rezoning has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the said application upon the calendar for hearing and publish and disseminate notices.
    - a. A notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. A notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
      - (1) The applicant.
      - (2) All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application; and
      - (3) The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. If the above-described three hundred (300) foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.
    - b. The notice of public hearing shall include the following information:
      - (1) A description of the nature of the application or request.
      - (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning;

- (3) State when and where the application or request will be considered.
- (4) Identify when and where written comments will be received concerning the application or request.

c. Any party may appear at such hearings in person or by agent or attorney.

3. Following such hearing, the Township Planning Commission shall submit the proposed amendment or supplement to the Antrim County Planning Commission for its review. The County Planning Commission shall recommend approval or disapproval of the plans as provided by law.
4. Thereafter, the Township Board may adopt the same with or without any amendments or recommendations that have been previously considered by the Township or County Planning Commissions, and may make revisions in the same.

G. Power of Revocation - The Township Board shall have the power to revoke or cancel any change of zoning effected for any failure to neglect to comply with any provisions of this Ordinance, or in case any false statement or misrepresentation is made in any petition, application, specification, plan or sketch submitted or filed pertaining to rezoning proceedings, or for failure to carry out any provision of such application, petition, specification, plan or sketch or conditions or provisions on which such rezoning of property was granted. In such case the prior zoning of the property in question shall automatically be reinstated.

#### Section 19.07 - SPECIAL EXCEPTIONS

A Special Exception Use is a use that is permitted within a specified zone after meeting specific requirements listed in this Section and in the zone. It is the purpose of this Section to provide a process for dealing with a Special Exception Use application, provide general standards and describe the method for addressing an individual special exception use not listed in the Ordinance. Due to the nature of the use, Special Exception Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

A. Every application for special exception shall be accompanied by:

1. A site plan as specified in Chapter 17.
2. A filing fee as established in the Elk Rapids Township Fee Resolution Schedule.
3. A narrative describing in detail the proposed Special Exception Use and detailing why the location selected is appropriate.
4. Applicant's statement of the expected effect of the special use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes.

5. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this ordinance, by the Zoning Administrator or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, light pollution or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment consistent with Township guidelines.
- B. When an application has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the application upon the calendar for hearing and publish and disseminate notices.
1. A notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. A notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
    - a. The applicant.
    - b. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application.
    - c. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. If the above described three hundred (300) foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.
  2. The notice of public hearing shall include the following information:
    - a. A description of the nature of the application or request.
    - b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property.
    - c. State when and where the application or request will be considered.
    - d. Identify when and where written comments will be received concerning the application or request.
  3. Any party may appear at such hearings in person or by agent or attorney.
- C. At any public meeting, the Planning Commission shall consider approval of the special exception under the provisions of Chapter 17 and this Section.

- D. All conditions of approval of the special exception by the Planning Commission shall take effect immediately upon approval. Any application approved by the Planning Commission, either as submitted or resubmitted in modified form, shall constitute a binding agreement by the applicant that the special exception use permitted shall be made, completed and operated as shown on the development plan. Failure to complete the permitted activity in conformance to the agreed upon development plan and conditions or to undertake the activity within one (1) year shall cause loss of special exception status and reversion to former zoning classification.
- E. The Planning Commission decision of approval or disapproval of a special exception application shall not be appealed to the Zoning Board of Appeals.
- F. General Review Standards. The Planning Commission, before acting on a Special Exception Use permit application, shall:
1. Utilize and be guided by standards which shall be consistent with and promote the intent and purpose of this Ordinance,
  2. Ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.
  3. The Planning Commission shall review each application and take action to approve a special exception use application only if it finds that such Special Exception Use meets each of the following standards, together with any and all Special Exception Use standards reflected for the zoning district, and any and all applicable specific review standards found in this Ordinance.
  4. The Planning Commission shall determine that adequate facts and evidence have been presented by the applicant that each use at its proposed location will be consistent with the public health, safety, and welfare of the Township and shall comply with the following Special Exception Use standards:
    - a. The application is consistent with the adopted Elk Rapids Township Master Plan.
    - b. The project is designed, constructed, operated and maintained to be consistent with the existing character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
    - c. The proposed use is not hazardous to existing or planned uses in the same general vicinity and in the community as a whole.
    - d. The proposed facility is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
    - e. The proposed use does not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
    - f. The proposed activity does not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any property or

general welfare by reason of excessive production of traffic, noise, vibration, smoke, toxic emissions, fumes, glare, or odors.

- g. The proposed use shall meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.
- G. Conditions and Approval Standards. The Planning Commission may establish reasonable conditions of approval for a Special Exception Use permit. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of:
  - 1. Accommodating increased service and facility loads caused by the land use or activity,
  - 2. Protecting the natural environment and conserve natural resources and energy,
  - 3. Insuring compatibility with adjacent uses of land, and
  - 4. Promoting the use of land in a socially and economically desirable manner.
- H. If a proposed use of land or use of a building is not addressed by this Ordinance, the Zoning Administrator and/or the potential applicant may request a determination by the Planning Commission. If the Planning Commission determines that such use is not addressed by this Ordinance, then the Planning Commission may permit such use as a Special Exception Use only after it develops and adopts specific review standards for the proposed Special Exception Use. Any such conditions imposed or specific review standards employed shall:
  - 1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners in the vicinity of the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of the Township Master Plan and the Township Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### Section 19.08 – FEES AND ESCROW DEPOSITS

Any fee required by this Ordinance shall be paid to the Township Treasurer before any action shall be taken on the application. Said amount so received shall be retained whether the requested relief or action is granted or not and shall be used as provided by law. All expenses incurred by the Township through the review of, and in the course of carrying out a public hearing for a Special Use/Special Exception, Non-Conforming Use Upgrade, Site Plan Review, Site Plan Modification, or Rezoning, shall be at the expense of the applicant. Fees may be changed by the Township Board at any regular meeting, which change shall be effective thirty (30) days from the date of publication of such change.

- A. The Township Board shall establish the fees for land use permits and other applications.

- B. For any application for site plan approval, a Special Land Use Permit, Planned Development, variance, or other use, project, or activity requiring a permit under this Ordinance, the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or Township Board may require the deposit of fees to be held in escrow in the name of the applicant.
1. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces.
  2. A schedule of fees as established by the Township Board, which may change from time to time, shall be maintained at the office of the Zoning Administrator.
  3. Fees shall be paid to the Zoning Administrator prior to the processing of any application required under this Zoning Ordinance.
  4. An escrow fee shall be required for any other application for the plan approval, special land use permit, planned development, variance, or other use, project, or activity requiring a permit under this Ordinance, to cover reasonable costs of reviewing such application at the discretion of the Zoning Administrator or reviewing body.
  5. Escrow fees shall be used only to cover expenses including staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other professional and technical services required for a proper and thorough review of the application.
  6. Professional review will result in a report to the Township indicating the extent of conformance or nonconformance with this Zoning Ordinance and to identify any problems which may create a threat to factors including, but not limited to, public health, safety, general welfare, and the overall environment. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. If requested, the Township will provide a copy of any professional review and a copy of the statement of expenses for the professional services rendered to the applicant.
  7. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning or other permit issued by the Township in response to the applicant's request. Official action, at the discretion of the Zoning Administrator or reviewing body, for any application may be postponed if funds in escrow fund are exhausted and are necessary for further professional review.
  8. The Township shall account for the expenditure of all such funds and shall promptly refund any remaining funds within sixty (60) days of final action by the reviewing board or official.

Section 19.09 - VIOLATIONS AND PENALTY

- A. Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se. The Township Board may institute proceedings in an appropriate court to enjoin, abate and remove said nuisance.
- B. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this Ordinance shall be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars, or imprisoned for not more than ninety (90) days, or both, such fine and imprisonment at the discretion of the Court, together with court cost. Every day that violation is permitted to exist shall constitute a separate offense.

Section 19.10 - VALIDITY

Should any section, subsection clause or provision of this Ordinance be declared by the courts to be invalid such decision shall not affect the validity of the Ordinance in its entirety or any part thereof other than the portion declared to be invalid.