

## **ARTICLE XXXI AMENDMENTS**

### **Section 31.1 PURPOSE & SCOPE**

It is the purpose of this Article to establish the procedures and standards for amendment of this Ordinance.

### **Section 31.2 INITIATION OF AMENDMENTS**

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Districts Maps of Benzonia and Platte Townships may be amended pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006 [MCL 125.3101 et seq] (MZEA), as amended.
- B. Amendments may be initiated by the Board of Trustees, the Planning Commission, or by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

### **Section 31.3 FEES**

- A. The Township Boards of Trustees shall establish, by resolution, fees for zoning amendment petitions.
- B. Such fee shall be paid in full at the time of application, and no part of such fee shall be returnable to the petitioner.
- C. Fees shall not be required for amendments proposed or requested by the Board of Trustees or the Township Planning Commission.

### **Section 31.4 AMENDMENT PROCEDURES**

All petitions for amendment shall be submitted as provided herein:

- A. The petitioner shall cause to be delivered to the Zoning Administrator not less than forty-five (45) days before any regular meeting of the Planning Commission:
1. Twelve (12) copies of the petition for amendment accompanied by twelve (12) copies of such documents as prescribed therein.
  2. A petition shall be made for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same type amendment.
- B. The Zoning Administrator shall review each petition to insure it is complete and in compliance with the provisions of this Ordinance.

1. Any petition not complete or not in compliance with this Ordinance shall be returned to the petitioner.
2. Any petition returned as not complete or not in compliance with this Ordinance shall not constitute filing to commence the running of time for processing the petition.
3. Any petition meeting the requirements of this Ordinance shall be scheduled for public hearing by the Zoning Administrator, within forty-five (45) days of acceptance of the petition, pursuant to a. and b. above.

C. Any person having an interest in any amendment may reasonably present testimony or evidence in support of or opposition thereto.

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**Section 31.5 PETITION REFERRAL**

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- A. On a petition for rezoning, the Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the following agencies:
1. Benzie-Leelanau District Health Department
  2. County Road Commission
  3. County Drain Commissioner
  4. Any school district affected
  5. Any City or Village agency affected
  6. Any State or Federal agency or office with an interest in the proposed change
  7. Any firm hired by the Township to provide a review or comments on the proposed amendment.
  8. The County Sheriff's Department and the local Fire Chief.
  9. The County Soil Erosion, Sedimentation and Storm Water Control agent
  10. Any others the Township believes should be notified.

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**Section 31.6 PUBLIC HEARING**

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- A. The Planning Commission shall conduct at least one public hearing on each petition for amendment; notice of which shall be given in the manner provided for in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (MZEA).
- B. The Zoning Administrator shall maintain a file of each affidavit of mailing for each mailing under this Section.
- C. If an individual property or several adjacent properties are proposed for rezoning; notice shall be given pursuant to the requirements of the MZEA.
- D. The Planning Commission shall conduct the public hearing consistent with the hearing procedures in the MZEA.

## **Section 31.7 FINDINGS OF FACT REQUIRED**

A. In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the Townships Boards of Trustees.

B. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

1. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
2. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning?
3. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
4. What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
5. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
6. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
  - a. Surface water drainage problems
  - b. Waste water disposal problems
  - c. Adverse effect on surface or subsurface water quality
  - d. The loss of valuable natural resources such as forest, wetland, historic sites, wildlife, mineral deposits, or valuable agricultural land?
7. Does the petitioned zoning change generally comply with the adopted Comprehensive Plan of Benzie County? If not, and if the proposed zoning change is reasonable, in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.
8. If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located (after considering all of the uses permitted by right, by special permit or as conditional uses)?
9. Is another procedure, such as a variance, special land use or planned unit development procedure a more appropriate alternative than a rezoning?
10. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

## **Section 31.8 PLANNING COMMISSION RECOMMENDATIONS**

All findings of fact shall be made a part of the public records of the meeting of the Planning Commission and the Board of Trustees. The Planning Commission shall not forward a recommendation to the Township Board of Trustees unless all of the findings in Section 31.7 and other factors identified by the Ordinance are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Township Board of Trustees.

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**Section 31.9 CONSIDERATION BY THE BOARD OF TRUSTEES**

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A. After receiving the recommendations of the Planning Commission, the Board of Trustees, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of the members of the Township Board of Trustees. The Township Board of Trustees may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Township Board of Trustees shall be published in a newspaper which circulates in the Township. The notice shall be given in the manner required by the MZEA.

B. Further, it is understood pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, that the Board of Trustees shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Board of Trustees, after which the Board of Trustees shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Board of Trustees shall make specific mention of their objections to the Planning Commission's findings and recommendations.

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**Section 31.10 NOTICE OF ORDINANCE ADOPTION**

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A. Following the adoption of an amendment by the Township Board of Trustees, filing and notice of such adoption shall comply with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

- B. The notice of adoption shall include the following information:
1. A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.
  2. The effective date of the amendment.
  3. The place and time where a copy of the Ordinance may be purchased or inspected.

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**Section 31.11 RESUBMITTAL**

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No application for a rezoning which has been denied by the Township Board of Trustees 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 Township Board to be valid.

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**Section 31.12 COMPREHENSIVE REVIEW OF ZONING ORDINANCE**

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The Planning Commission shall at least once per year examine all the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the Township Boards of Trustees recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare, pursuant to Section 308.(2) of the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.