

CHAPTER 1322

Administration, Enforcement and Penalty

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CROSS REFERENCES

City zoning ordinances; public hearing, notice; report of Planning Commission; amendment; vote required - MCLA 125.584
 Board of Zoning Appeals - MCLA 125.585; Zoning Code Chapter 1324
 Conflicting laws; governing law - MCLA 125.586
 Violations; nuisance per se; abatement - MCLA 125.587
 Amendments - Zoning Code Section 1320.04
 Appeals - Zoning Code Section 1324.04; 1324.05(b)
 Variances - Zoning Code Section 1324.05(d)

1322.01 LAND USE PERMITS.

- (a) **Permit Required.** A land use permit is required before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered when such activity requires a building permit and before land clearing (as defined in this Code). A land use permit is also required before a parking area is constructed, reconstructed or enlarged. Interior structural alterations for one or two-family dwellings that do not result in a change in use or an expansion of a non-conforming use do not require land use permits.
- (b) **Foundation Only Approval Prohibited.** In no case shall a land use permit be issued for the construction of foundations only.
- (c) **Application Forms.** The Planning Director shall have application forms for a land use permits available at the office of the Planning Director.
- (d) **Site Plans.** All land use permit applications shall be accompanied by an accurate site plan or diagram complying with the requirements of this Code.
- (e) **Survey.** When requested by the Planning Director, all dimensions shown on the site plan relating to the locations and size of the lot shall be based on an actual survey and the lot shall be staked out on the ground before construction is started.
- (f) **Records.** The original copy of such applications and site plans shall be kept by the Planning Director and a copy shall be kept at the site at all times during construction.
- (g) **Fees.** Land use permit application fees shall be established by resolution of the City Commission. A special fee may be required for any project which may, in the discretion of the Planning Director or Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services or upon adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made. The Planning Director may require and hold such fee in escrow to be used when the professional services must be paid.
- (h) **Expiration of Permit.** Unless the land use permit states differently, a permit expires after 24 months from the date of granting such permit if the activity is not at least 75

percent completed, and after 36 months if not 100 per cent completed. Completion percentages shall be determined in the sole discretion of the Planning Director, subject to appeal to the Board of Zoning Appeals.

- (i) **Revocation.** The Planning Director may revoke any land use permit for failure to comply with any provisions of this Code, the application or permit or for a material error, false statement or misrepresentation made in the application. The owner or owner's agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and new use of the site shall cease, other than for the purpose of correcting the violation. The Planning Director may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order to halt all construction activities and land use pending a decision on revoking the permit.
- (j) **Relation to Non-Conforming Uses.** It is not necessary for an owner of a legal nonconforming structure or use to obtain a land use permit in order to maintain its legal, nonconforming status. However, no Class I nonconforming use shall be changed or extended until a land use permit has been issued by the Planning Director. In such cases the permit shall state specifically how the nonconforming use differs from the provisions of this Code.

(Ord. 476. Passed 7-6-99. Ord. 594. Passed 1-06-03. Ord. 810. Passed 9-2-08. Ord. 812. Passed 10-6-08.)

1322.02 IMPROVEMENT GUARANTEES.

- (a) **Required.** To ensure compliance with this Zoning Code and any condition imposed hereunder, the City Commission, the Planning Commission, the Board of Zoning Appeals or the Planning Director may require that a guarantee covering the estimated cost of improvements associated with a project for which zoning approval is sought be deposited with the City Treasurer to ensure faithful completion of the improvements.
- (b) **Definitions.** As used in this section:
 - (1) "Guarantee" or "improvement guarantee" means a cash deposit, certified check, irrevocable bank letter of credit or surety bond in such form as determined by the City Attorney.
 - (2) "Improvements" means those features and actions associated with a project, that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, parking, screening and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.
- (c) **Deposit.** The guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require deposit of the guarantee before the date upon which the City is prepared to issue the permit.
- (d) **Rebate.** The Planning Director shall establish written procedures under which a cash deposit, in reasonable proportion to the ratio of work completed on the required improvements, is rebated as work progresses. Such procedures shall be on file in the office of the Planning Director. The Planning Director may amend such procedures, but such amendments shall not affect any guarantee previously deposited with the City,

except upon mutual agreement of the Planning Director, the person obtaining the permit to which the guarantee applies and the person making the guarantee.

1322.03 CERTIFICATES OF OCCUPANCY.

- (a) **Required.** Certificates of occupancy shall be required for any of the following:
- (1) Occupancy and use of a new building or of a structurally altered building;
 - (2) Change in the use of an existing building to a use of a different zoning classification;
 - (3) Occupancy and use of vacant land;
 - (4) Change in the use of land to a use of a different zoning classification; and
 - (5) Change in the use of a nonconforming use.

No such occupancy, use or change of use shall take place until a certificate of occupancy therefor has been issued.

- (b) **Temporary Certificates.** Pending the issuance of a final certificate, a temporary certificate of occupancy may be issued by the Building Inspector. Temporary certificates shall be effective no more than six months during the completion of construction or alterations. A temporary certificate shall not be construed as altering the respective rights, duties or obligations of the owner or the City relating to the use or occupancy of the premises or any other matter covered by this Zoning Code. Temporary certificates shall not be issued except under such restrictions and provisions as will adequately ensure the safety of occupants. If a temporary certificate expires and a final certificate is not issued, the building or land shall not be occupied.
- (c) **Final Certificates.** Final certificates of occupancy shall be issued if there has been compliance with all provisions of this Zoning Code and all other applicable health, safety and welfare requirements.
- (d) **Land.** Certificates of occupancy for the use of vacant land or for a change in the character of the use of land shall be applied for before such land is occupied or used.
- (e) **Statement and Record.** A certificate of occupancy shall state that the building or the proposed use of the building or land complies with this Zoning Code. A record of all certificates shall be kept on file.

1322.04 ZONING ADMINISTRATOR

- (a) **Administration.** The Planning Director shall designate an individual to act as Zoning Administrator. The administration and enforcement of this Code shall be the responsibility of the Zoning Administrator.
- (b) **Appearance Tickets.** The Zoning Administrator or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this Zoning Code pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCL 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

1322.05 FEES AND DEPOSITS.

At the time of a request for any zoning approval, an applicant shall pay to the City Treasurer a

fee as determined by resolution of the City Commission. The fee shall cover the approximate cost of the procedure. In addition to any established fees, the applicant shall deposit such sum as is determined necessary by the Planning Director to cover any extraordinary costs in processing the application.

1322.06 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of the Zoning Code is responsible for a municipal civil infraction.

1322.07 DECLARATION OF NUISANCES.

Buildings and structures built, altered, razed or converted, or uses carried on, in violation of this Zoning Code, are hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated, and the owner or agent in charge of the building or land may be adjudged guilty of maintaining a nuisance per se. A person may not assert that a use is a nonconforming use or vested right, by way of defense to any Code enforcement action or otherwise until that person has exhausted all administrative remedies for determination of a non-conforming use.

1322.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Zoning Code shall be subject to the civil infraction sanctions, injunctive relief, nuisance abatement, surcharges and equitable remedies as provided in the Traverse City Code of Ordinances or as otherwise available under the law, as well as any damages resulting from such violation. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 476. Passed 7-6-99)