

CASCADE CHARTER TOWNSHIP

ORDINANCE NO. 24-2

**AN ORDINANCE TO AMEND CHAPTER 23 OF THE TOWNSHIP ZONING
ORDINANCE TO DELETE REFERENCES TO, AND REGULATION OF,
TOWNSHIP PLANNING COMMISSION**

THE CHARTER TOWNSHIP OF CASCADE ORDAINS:

Section 1. Amendment of Chapter 23 of the Township Zoning Ordinance

Chapter 23 of the Township Zoning Ordinance is amended in its entirety to read as follows:

Section 23.01. Title

Administrative Procedures of the Zoning Board of Appeals

Section 23.02. Establishment of the Zoning Board of Appeals

The Zoning Board of Appeals is hereby established in accordance with the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, to act upon all questions as they may arise in the administration of this Zoning Ordinance, including the interpretation of the Cascade Charter Township Zoning Map.

Section 23.03. Membership and Terms of Office

- 1. Membership.** The Zoning Board of Appeals shall consist of five (5) members and two (2) alternate members who shall be representative of Township population and of the major interests present in the Township. All members shall be residents and qualified voters within Cascade Charter Township. One (1) member of the Township Board may be a member of the Zoning Board of Appeals and one (1) member of the Planning Commission shall be a member of the Zoning Board of Appeals, with their term of service running concurrent with his/her service on their respective board (i.e., other than the Zoning Board of Appeals). The Township Supervisor may appoint up to two (2) alternate members for the same term as regular members to the Zoning Board of Appeals, upon approval by the Township Board. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
- 2. Terms.**

- a. Members of the Zoning Board of Appeals shall be appointed by the Township Supervisor with approval by the Township Board.
 - b. The term of each member shall be for three (3) years.
 - c. Zoning Board of Appeals members shall be appointed with staggered terms, but members may continue to serve until their successors have been appointed.
3. **Vacancies.** In the event that a member of the Zoning Board of Appeals can no longer serve because of health or any other reason, the Township Supervisor may appoint, upon Township Board approval, another person to the Zoning Board of Appeals that unexpired term. Should the unexpired term be two (2) years or longer, it shall be considered as a full term.

If a Zoning Board of Appeals member moves outside of the jurisdictional boundaries of the Township, such event constitutes an automatic resignation from the Zoning Board of Appeals, effective upon the date a replacement is appointed by the Township Supervisor and approved by the Township Board.

4. **Member Absence.** In the event that a member cannot attend a meeting, they shall call and inform the Recording Secretary before 5:00 p.m. the day of the meeting, so that they can be excused from the meeting.

Should a member have three (3) or more consecutive unexcused absences from regularly scheduled meetings or miss at least fifty (50) percent or more of all meetings within any twelve (12) month period, it shall constitute a reasonable ground for removal. To initiate this action, the chairman shall prepare a memorandum requesting that member to resign. The memorandum of attendance or a letter of resignation shall be forwarded to the Township Supervisor, with a request that an appointment be made to fill the vacancy.

5. **Removal:**

- a. **Reason for Removal.** Members of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- b. **Conflict of Interest.** A member may be excused from voting on a particular issue by majority vote of the remaining members present for reasons of a conflict of interest if:
 - i. The member has a direct financial interest in the outcome of the matter at issue;
 - ii. The matter at issue involves the member's business or place of employment;

- iii. Participation in the matter might violate the letter or spirit of a member's code of professional responsibility;
- iv. The member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest; or
- v. Participation would violate a rule or regulation adopted by the body involved.

Section 23.04. Officers, Procedural Matters, Quorum, Voting, and Records

1. **Officers and Duties.** The Zoning Board of Appeals shall elect a chairman, vice- chairman, and a secretary from its members. No member of the Township Board shall be an officer of the Zoning Board of Appeals.

The term of each officer shall be one (1) year or until their successor(s) are selected and assume office. The term of each officer shall not extend for more than two (2) consecutive one-year terms. The election of officers shall take place at the first meeting in January. The Zoning Board of Appeals shall elect its officers by a majority vote of the members present at the time of election at a meeting where a quorum is present.

The chairman shall preside at all meetings, appoint committees subject to Zoning Board of Appeals approval, retain voting and discussion privileges, and perform such other duties as may be ordered by the Zoning Board of Appeals.

The vice-chairman shall act in the capacity of the chairman in his/her absence. In the event the office of the chairman becomes vacant, the vice-chairman shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of vice-chairman for the unexpired term. The vice-chairman may also serve as the secretary.

The secretary shall execute documents in the name of the Zoning Board of Appeals and perform such other duties as the Zoning Board of Appeals may determine. The Planning Director shall serve as the recording secretary, shall be responsible for the minutes of each meeting, and shall have them recorded in suitable volumes available at the Cascade Charter Township Hall.

2. **Procedural Matters.**

- a. The Recording Secretary shall prepare an agenda for each meeting and whenever feasible, the agenda for each meeting shall be made available to the public in advance of the meeting.
- b. Parliamentary procedure at Zoning Board of Appeals meetings shall be governed by Robert's Rules of Order.

3. **Meetings.** Meetings of the Zoning Board of Appeals shall be held on the second Tuesday of each month at a time and place to be determined by the Recording Secretary, unless canceled or rescheduled by the Zoning Board of Appeals. When the regular meeting day falls on a legal holiday, the Zoning Board of Appeals may select a suitable alternate day in accordance with the Michigan Open Meetings Act. At the Zoning Board of Appeals meeting in December, the Recording Secretary shall submit to the Zoning Board of Appeals a proposed meeting schedule for the upcoming year. At this meeting, the schedule shall be approved as submitted or amended to reflect the changes directed by the Zoning Board of Appeals.

Special meetings may be called at the request of any member or upon request by the Recording Secretary.

All meetings, subcommittee meetings, hearings, records and accounts shall be open to the public in accordance with the Michigan Freedom of Information Act and the Michigan Open Meetings Act.

4. **Quorum.** A quorum shall consist of at least (3) members. Official action of all matters before the Zoning Board of Appeals shall be taken by a concurring vote of three (3) or more members of the Zoning Board of Appeals.

5. **Voting.**

- a. **Decisions.** The concurring vote of at least three (3) members of the Zoning Board of Appeals shall be required to reverse any requirement, decision or determination made by the Planning Director, or grant a variance from the requirements of this Ordinance.

- b. **Voting Procedures.**

- i. Motions before the Zoning Board of Appeals may be restated by the chairman before a vote is taken. The name of the person making the motion and its supporter shall be recorded.
- ii. Voting shall be by voice vote. All motions or resolutions resulting in Township expenditures shall be by a roll call vote. All members present are required to vote unless excused for reasons of a conflict of interest, as noted in Section 23.03(5)(b).
- iii. Action by the Zoning Board of Appeals or Zoning Board of Appeals on any matter for which a public hearing is required shall not be taken until the public has had the reasonable opportunity to address the Zoning Board of Appeals or Zoning Board of Appeals.
- iv. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good

and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

Section 23.05. Functions, Considerations, Decisions, and Authority of the Zoning Board of Appeals.

1. Appeals from Administrative Action:

a. **Function.** The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is an error in any requirement, decision, interpretation, determination or action of any administrative official charged with the administration and enforcement of the provisions of this Ordinance, provided that:

i. No appeal to the Zoning Board of Appeals shall lie from any act by such administrative official pursuant to:

1. A resolution or directive of the Township Board directing him/her to perform such act; or

2. Any procedure or other requirement of this Ordinance.

ii. The appeal to the Zoning Board of Appeals shall be in writing on forms provided by the Township, and shall be duly filed with the Planning Department within thirty (30) calendar days (but not thereafter) of such act or decision by the administrative official. The appeal shall specify the grounds for the appeal.

iii. No appeal shall be considered by the Zoning Board of Appeals where it appears to be a circumvention of an established or required procedure.

b. Considerations

i. In reaching its decision and in addition to any standards specified in this Ordinance, the Zoning Board of Appeals shall consider the following criteria as well as any other issues which are pertinent and reasonable:

1. Whether or not the appeal is of a nature properly brought to them for decision, or whether or not there is an established procedure for handling the request other than through the appeal process (i.e., a variance or Special Use, etc.).

2. The intent of the Ordinance.

3. The effect the ruling will have when applied generally to this Ordinance.

- ii. The Zoning Board of Appeals shall consider Staff recommendations, the testimony of the applicant and testimony of the general public.
- c. **Decision and Authority.** The Zoning Board of Appeals may reverse, affirm, or modify any decision or action of any administrative official charged with the administration or enforcement of this Ordinance. In order to reverse any decision or action of such administrative official, the concurring vote of at least three (3) members of the Board shall be necessary.

2. **Variances:**

- a. **Function.** The Zoning Board of Appeals shall hear and decide all requests for variances (except use variances) from the terms of the regulations or restrictions of this Ordinance.
- b. Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, or permitted use of lands, structures, or buildings in other zoning districts shall not be considered grounds for granting a variance.
- c. **Findings.** Before granting any variance, the Zoning Board of Appeals must find that all of the following standards are met:
 - i. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district;
 - ii. That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant (or the applicant's predecessors) taken subsequent to the adoption of this Ordinance;
 - iii. That such variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 - iv. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
 - v. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to amend the Ordinance; and
 - vi. That complying with the Ordinance presents practical difficulty.
- d. **Decisions and Authority**
 - i. The Zoning Board of Appeals may grant or deny, wholly or partly, any request for a variance from the regulations or restrictions of this Ordinance;

provided, however, that no use variance shall be applied for, heard, or granted.

- ii. The Zoning Board of Appeals shall have the authority to attach such conditions and requirements to the granting of a variance as are reasonably necessary for the protection of the health, safety, comfort, convenience, and welfare of the general public. Such conditions or requirements shall be reasonably related to the variance granted.
- iii. The Zoning Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear by statute and this Ordinance and decide as provided herein.
- iv. The Zoning Board of Appeals shall not alter or change the zoning district classification of any property, or make any change in the definitions or terms of this Ordinance, and shall not take any action which results, in effect, in making such legislative changes.

e. Voiding of a Reapplication for a Variance

- i. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction, occupancy or other actions authorized by such variance have substantially commenced within one (1) year of granting such variances, and is pursued diligently to completion. For the purpose of this Section, the commencement of construction for a building shall be the time at which a building foundation is installed.
 - ii. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted, except on grounds of new evidence of proof of changed conditions found.
3. **Appeal of Variances.** A decision of the Zoning Board of Appeals shall be final. However, an aggrieved party may appeal to the circuit court.
4. **Temporary Uses.** Pursuance to Section 4.18(4) of this Ordinance, the Zoning Board of Appeals shall have the authority to review and approve requests for temporary uses.

Section 23.06. Public Hearing Notice Requirements for the Zoning Board of Appeals

- 1. **Mailed or Delivered Notices** – The Planning Department shall send by mail or personal delivery a notice of public hearing for a variance or zoning ordinance interpretation request as specified in Section 23.07.
- 2. **Publication of Public Hearing Notes:** The publication of a notice for a public hearing for a variance or zoning ordinance interpretation as specified in Section 23.07.

Section 23.07. Public Notices- Publication, Mailing, and Delivery

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

1. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
2. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
 - a. The applicant;
 - b. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application; and
 - c. The occupants of all structures within 300 feet of the property that is the subject of the application. If the above-described 300-foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories.
3. The notice of the 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 also 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.
 - c. A statement of where and when the application or request will be considered.
 - d. Indicate where and when written comments will be received concerning the application or request.

Section 2. Severability.

If a court determines that any provision of this Chapter is invalid, the remaining provisions of this Chapter shall remain in full force and effect.

Section 3. Repealer.

Any ordinances in conflict with this ordinance are repealed to the extent necessary to give this ordinance full force and effect.

Section 4. Effective Date.

This ordinance takes effect upon the expiration of seven (7) days after publication.


THE FOREGOING ORDINANCE WAS OFFERED BY TRUSTEE SHIPLEY SECONDED BY TRUSTEE KOESSEL AND THE VOTE BEING AS FOLLOWS:

YEAS: NOORDHOEK, KORSTANGE, KOESSEL, SHIPLEY, SLATER, LESPERANCE

NAYS: NONE

ABSENT: MCDONALD

RESOLUTION DECLARED MARCH 13, 2024.



SUSAN B. SLATER, CLERK

CASCADE CHARTER TOWNSHIP

CERTIFICATION

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF AN ORDINANCE ADOPTED AT A REGULAR MEETING OF THE CASCADE CHARTER TOWNSHIP BOARD, HELD ON MARCH 13, 2024.



SUSAN B. SLATER, CLERK

CASCADE CHARTER TOWNSHIP