

**Current Posted Zoning Ordinance with Amendments through No. 184**

**Amendments not in the website posted version**

Amendment 185 – NO RECORD.

Amendment 186 – NOT ADOPTED Assisted Living – NO ACTION BY THE TOWNSHIP BOARD

Amendment 187 – NOT ADOPTED Roadside Stands TABLED BY THE TOWNSHIP BOARD.

Amendment 188 – Remove Section 5.7.4 Copy attached

Amendment 189 –Relocate the gift shop in the Lighthouse. Copy attached.

Amendment 190 – Amend Section 3.2 Dwelling and Event definitions. Copy attached

Amend Section 4.3 Escrow in its entirety. Copy attached.

Amend Section 5.7.3 Variances in its entirety – Copy attached.

Amend Section 7.4.2 (3) Minimum Lot Widths and Vehicle Parking in its entirety. Copy attached

Amend Section 7.5.5 Additions to non-conforming structure in its entirety. Copy attached.

Amend Section 7.11.6(d) Sign placement and requirements table in its entirety. Copy attached.

Amendment 191 – NOT ADOPTED Limit one application at a time. NO ACTION BY THE TOWNSHIP BOARD

Amendment 192 – Amend Section 7.10.11 Existing Non-Conforming Frontage Roads in its entirety. Copy attached.

Amendment 193 – NOT ADOPTED. Revised as Amendment 195.

Amendment 194 – Amend Section 4.2.1 Violations and Penalties in its entirety. Copy attached.

Amendment 195 – Amend Section 6.9.3.7 Deleted and replaced by Section 6.9.3.7 Wetlands and Floodplain Regulations.

Add new Section 7.1.3 limit uses on uninhabitable lands

Delete Section 7.4.7 in its entirety and replace with Section 7.4.7 Floodplains and Wetland Controls.

Copy attached.

Amendment 188 – Remove Section 5.7.4

**PENINSULA TOWNSHIP BOARD  
REGULAR MEETING  
June 14, 2011**

Meeting called to order at 7:00 p.m.

**PRESENT: Rosi; Wilson; Weatherholt; Hoffman, Byron, Horton and Manigold.**  
**Also present: Dan Leonard, Township Planner and Peter Wendling, Township Attorney.**  
**ABSENT: None.**

**CHANGES/ADDITIONS TO AGENDA**

**Manigold added Additional Gravel Projects as Business Item 9.**

The Agenda was approved as amended.

**BRIEF CITIZEN COMMENTS (FOR ITEMS NOT ON THE AGENDA)**

None.

**CONFLICT OF INTEREST**

None.

**CONSENT AGENDA**

1. Reports and announcements (as provided in packet)
  - A. Officers – Clerk, Supervisor and Treasurer
  - B. Departmental – Planning Commission, Zoning Board of Appeals, Attorney, Engineer, Library, Fire Board, Park Commission (Discussion followed) and Township Deputy
2. Correspondence (as provided in packet)
3. Edit list of invoices and additional invoices - (Recommend approval)
4. Minutes of Regular Meetings – May 10 & 26, 2011 and Personnel Committee Meetings – May 10 & 26, 2011 – (Recommend approval)
5. May 2011 Payroll – (Recommend approval)

Craig Goodrich said that he received two bids on the Cherrywood Commons project. He is obtaining additional bids. The issue will be discussed at the Township Board (TB) Meeting on June 23, 2011.

**MOTION: Weatherholt/Horton** to approve the Consent Agenda as presented.

**Roll Call Vote: Rosi-yes, Wilson-yes, Weatherholt-yes, Hoffman-yes, Byron-yes, Horton-yes and Manigold-yes.**  
**PASSED UNAN**

**BUSINESS**

**1. Public Hearing – Master Plan**

**Manigold** opened the public hearing at 7:05 p.m.

**Leonard** said that the Master Plan was distributed to other agencies on January 27, 2011. A sixty-day waiting period to receive comment ensued. Planning Commission (PC) unanimously

recommended approval. Bill Briggs, Zoning Administrator for Torch Lake Township's E-mail dated April 28, 2011 was received. It stated that their PC has no problem with the Master Plan. John Sych of Grand Traverse County Planning & Development's letter dated May 23, 2011 was received. It stated that the Master Plan is consistent with the Grand Traverse County Comprehensive Plan and the City of Traverse City Master Plan.

*Marty Lagina, 232 W. McKinley Rd.,* believes the survey was biased and badly formed. He expressed concern with the overlay districts being overbroad. He requested the TB eliminate them. If the TB keeps the overlay districts, then Mr. Lagina requests they eliminate steep slope regulations. He has a problem with misrepresentation relating to the survey.

**Manigold** said that the Master Plan is conceptual. The law is in the zoning ordinance, which is being rewritten. The steep slopes issue would be dealt with in the ordinance. Attorney Wendling said that the Master Plan is a guide and a recommendation.

*Nancy Heller, 3091 Blue Water Rd.,* supported Mr. Lagina's comments above. She is concerned that the Master Plan is a policy and how it will affect property owners' rights. She is concerned with the following language: Page 20 (b) "permanently" and (c) "similar."

*Mark Nadolski, President of Protect the Peninsula, 10 McKinley Rd.,* said that the survey reflected what people want. He applauded all involved with Master Plan. He referred to connecting paths between developments, mentioned underground power lines, septage inspections. He would change very little. The Master Plan should be accepted today.

**Manigold** closed the public hearing at 7:25 p.m.

**Hoffman** said that she is also concerned about Page 20, "permanently" language. If items are referenced in the Master Plan, do they need to be in the zoning ordinance? Attorney Wendling said no, but it provides more support. He said that the zoning ordinance does not necessarily have to be rewritten before the Master Plan can be approved. The Master Plan is an overall guide. **Hoffman** is concerned with interpretation and implementation of certain language discrepancies between the Master Plan and zoning ordinance. **Horton** said that the Master Plan becomes the vision that people go by. He believes agricultural should be a use by right. Regarding steep slopes and ridgelines, who determines them? **Rosi** provided clarification regarding certain roads (e.g., Camino Maria) and steep slopes. She relayed development standards (i.e., grade and angle). Regarding ridgelines, the PC has been trying to protect visual value. **Weatherholt** expressed concern about what major changes have taken place in this Master Plan compared to the 2003 Master Plan regarding the survey results.

**MOTION: Hoffman/Wilson** to table the Master Plan until the Township Board's next meeting scheduled for June 23, 2011 at which time Dan Leonard will provide an outline of the changes from the 2003 Master Plan.

**PASSED UNAN**



## **2. Public Hearing – Removal of Section 5.7.4 Special Exceptions from Ordinance Amendment #188**

**Manigold** opened the public hearing at 7:43 p.m.

**Leonard** said that he, the PC and legal counsel advised removal of Section 5.7.4 Special Exceptions from Ordinance Amendment #188 to become more in compliance with state law.

**Manigold** said that John Fisher of Center Road's letter supporting removal of Section 5.7.4 was received.

*Bernie Soutar, Zoning Board of Appeals, 15249 Bluff Rd.,* said that the ordinance has caused the Zoning Board of Appeals (ZBA) much difficulty. He supports removal, because of jurisdictional and legislative problems it has caused.

*Ed O'Keefe, 12301 Center Rd.,* said that he wants Section 5.7.4 removed. He is bothered that it sets a precedent that three people on a committee (i.e., ZBA) can override an ordinance. Mr. O'Keefe said that it is illegal and in violation of state law.

Mr. Lagina is concerned about removal of (2) Conditional Permits portion of the Section.

Attorney Wendling said that previous decisions are grandfathered in.

Mr. Nadolski said that he supports removal of Section 5.7.4, because it conflicts with the zoning ordinance as created.

**Manigold** closed the public hearing at 7:55 p.m.

**Hoffman** asked if the TB could remove only the special exceptions and temporary permits portion of the Section? **Rosi** suggested (2) Conditional Permits (a), (b) and (c) be considered elsewhere, not under Special Exceptions. Attorney Wendling said that these are issues that can be looked at, but should not be dealt with through the ZBA.

**MOTION: Byron/Horton** to approve the recommendation of the Township Planner to delete Section 5.7.4 Special Exceptions from Ordinance Amendment #188. **PASSED UNAN**

**MOTION: Hoffman/Rosi** to direct the Township Planner to work with Legal Counsel and the Planning Commission to have Conditional and Temporary Permit language contained in Section 5.7.4 2. (a), (b) and (c) of the zoning ordinance addressed appropriately elsewhere in the ordinance. **PASSED UNAN**

## **3. Consider Amendment to Solid Waste Plan (Tabled)**

**MOTION: Horton/Byron** to remove consideration of an amendment to the Solid Waste Plan from the table. **PASSED UNAN**

Amendment 189 –Relocate the gift shop in the Lighthouse.



**PENINSULA TOWNSHIP  
ZONING ORDINANCE AMENDMENT # 189**

AN ORDINANCE TO AMEND THE PENINSULA TOWNSHIP ZONING ORDINANCE CONCERNING MISSION POINT LIGHTHOUSE AND LIGHTHOUSE PARK

THE TOWNSHIP OF PENINSULA ORDAINS:

**Section 1. Amendment of Subsection 8.6.1(4).**

Subsection 8.6.1(4) of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

**(4) Mission Point Lighthouse and Lighthouse Park: (ADDED BY AMENDMENT 180 and AMENDED BY AMENDMENT 189)**

Retail sales shall be allowed within an existing structure located upon the Mission Point Lighthouse Park grounds, provided the following conditions are met:

- (a) Items sold shall be limited to merchandise relating to the Mission Point Lighthouse, Michigan lighthouses, and local history. Examples include items such as light house replicas, hats, t-shirts or sweatshirts, coffee mugs, pencils, pins, pens, prints, books, calendars, lapel pin, magnets, puzzles, patches, ornaments and bookmarks with lighthouse logos.
- (b) The Township Board may authorize the sale of other items related to the lighthouse park.
- (c) Net proceeds from the gift shop shall be placed in a designated fund to be used for operation and maintenance of the Mission Point Lighthouse and Lighthouse Park.
- (d) No general funds may be used for the operation of the gift shop.

**Section 2. Severability.**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 3. Effective Date.**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

PENINSULA TOWNSHIP

By:

Robert K. Manigold, Supervisor

By:

Monica A. Hoffman, Clerk

**BUSINESS**

**1. Public Hearing – Ordinance Amendment No. 189 – Lighthouse Gift Shop Language**

Manigold opened the public hearing at 7:07 p.m.

Leonard said that the Ordinance Amendment No. 189 only changes the ordinance language. In the future, the Park Commission (PkC) would need to apply to amend their existing SUP to comply with the new ordinance language and make changes. The new language would allow them to move the gift shop in an existing building.

Fred Stoye, Park Commission Chairman, 8713 Center Rd., said that it is the intent of the Park Commission per their five-year plan to expand the gift shop, but requirement of a bathroom put the expansion on hold. However, the gift shop has outgrown the room it is currently located in and sales have increased. Therefore, they plan to move it into the Lighthouse bedroom and relocate the beds to the living room at a minimal cost.

Manigold closed the public hearing at 7:10 p.m.

**MOTION: Rosi/Manigold** to approve Ordinance Amendment No. 189, alteration of permitted locations for the Mission Point Lighthouse Gift Shop as amended, because the proposed amended language is in compliance with the goals of the 2010 Peninsula Township Recreation Plan and any additional reasoning as put forth by the Planning Commission.

**Roll Call Vote: Wilson-yes, Weatherholt-no, Hoffman-no, Byron-yes, Horton-yes, Rosi-yes and Manigold-yes.**

PASSED

**2. Change in Water Turn On/Off Fee (BPW)**

Mike Slater, Grand Traverse County Public Works Director, said that the requests for water turn off generally come in the fall when residents move south for the winter. The requests for water turn on generally come in the spring when residents return. In May 2010, Sewer and Water Committee recommended fee be increased from \$10 to \$50. All townships would then have similar fee. Mr. Slater said that \$50 is comparable to other municipalities. Residents will be notified of the increase.

Scott Howard, Olson, Bzdok & Howard, P.C., 420 East Front St., drafted language to adopt schedule for water turn on/off fee. There was TB consensus to approve the language. Attorney Graham will prepare a resolution and amendment to the ordinance to include the language.

**3. Residential Equivalents Unit Benefits Chart Revised (BPW)**

Mr. Slater said that the purpose of the Schedule of Residential Equivalents Benefits is to establish the basis for sewer hookup charges and sewer use rates. The Sewer and Water Committee looked at different types of businesses and made comparisons based on residences to determine residential equivalents benefits (i.e., what should be charged to a residence). It is a way for communities to pay for bonds. The chart uses square footage, seating, etc. to figure the amount to charge. The Committee addressed issue by looking at marinas, restaurants, car washes



**Amendment 190 – Amend Section 3.2 Dwelling and Event definitions**

**Amend Section 4.3 Escrow in its entirety**

**Amend Section 5.7.3 Variances in its entirety**

**Amend Section 7.4.2 (3) Minimum Lot Widths and Vehicle Parking in its entirety**

**Amend Section 7.5.5 Additions to non-conforming structure in its entirety**

**Amend Section 7.11.6(d) Sign placement and requirements table in its entirety**

*Amendment 190*

**NOTICE OF ZONING ORDINANCE ADOPTION**

**PLEASE TAKE NOTICE** that the attached Ordinance amending the Peninsula Township Zoning Ordinance was enacted by the Township Board of the township of Peninsula. The Zoning Ordinance Amendment will be effective eight days following publication of this notice and the ordinance in a newspaper of general circulation within the Township. A complete copy of the Zoning Ordinance Amendment may be purchased or inspected at the office of the Township Clerk during regular business hours or by appointment with the Township Clerk.

**Township of Peninsula**

**Monica A. Hoffman, Township Clerk  
13235 Center Rd.  
Traverse City, MI 49686**

PENINSULA TOWNSHIP  
Zoning Ordinance Amendment #190

AN ORDINANCE TO AMEND THE PENINSULA  
TOWNSHIP ZONING ORDINANCE

THE TOWNSHIP OF PENINSULA ORDAINS:

Section 1. Amendment of Section 3.2

The definition of "dwelling" within Section 3.2 of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

Dwelling: A single building, or portion thereof, providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for living, sleeping, heating, cooking, and sanitation.

The definition of "event" within Section 3.2 of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

Event: A planned gathering or activity on a set date & time, and at a specific location.

Section 2. Amendment of Section 4.3

Section 4.3 of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

Section 4.3 Escrow: If any commission or board determines that the basic fees will not cover the actual costs of the application review or appeal, or if any commission or board determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the township treasurer such additional zoning fees in an amount determined by any commission or board equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than twenty (20%) percent of the latest escrow deposit and review of the application or decision on the appeal is not completed, then any commission or board may require the applicant to deposit additional fees into escrow in an amount determined by any commission or board to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section 3. Amendment of Subsection 5.7.3

Subsection 5.7.3 of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

**Section 5.7.3 Variances:** The Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements. PROVIDED ALL of the basic conditions listed herein can be satisfied.

(1) **Basic Conditions:**

- (a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.
- (b) That the need for the variance is not the result of actions of the property owner (self-created) or previous property owners.
- (c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)
- (d) That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- (e) That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.
- (f) That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

(2) **Rules:** The following rules shall be applied in the granting of variances:

- (a) The Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- (b) Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance or permit has been commenced

within six (6) months after the granting of the variance; and the occupancy of the land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.

- (c) No application for a variance which has been denied wholly or in part by the Board of Appeals 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 Board of Appeals to be valid.

(3) Additional Conditions in Determining Variances for Decks or Deck with Attached Seating and/or Attached Storage within the Great Lakes Ordinary High Water Mark Setback:

In determining whether to grant a variance permitting construction of a deck or of a deck with attached seating and or attached storage within the ordinary high water mark setback, the Board of Appeals shall, in addition to considering Basic and Special Conditions established by this Ordinance, consider the following conditions:

- (a) The physical characteristics of the waterfront property which may require the construction of a deck to make use of that property.
- (b) The proximity of the proposed structure to the main traveled portion of the roadway so as to insure the safety of users and/or property.
- (c) The extent to which the proposed structure will obstruct the public view of the shoreline.
- (d) The degree of exposure of the structure to damage by the elements.
- (e) The aesthetics of the structure as viewed from both the land and the water.

Section 4. Amendment of Subsection 7.4.2(3)

Subsection 7.4.2 (3) of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

(3) Minimum Lot Widths and Vehicle Parking Space Requirements:

(a)	<u>No. of Families</u>	<u>Minimum</u>
	<u>With Access Rights</u>	<u>Lot Width</u>
	Two Families	100
	Three Families	150
	Four Families	200
	Over Four Families	
	(Five additional feet per family)	

- (b) One parking space for each boat hoist shall be provided off the traveled portion of the road such that all portions of a parked vehicle are at least five (5) feet from the driving lane to provide safe egress from the vehicle.
- (c) Each parking space shall be a minimum of twenty-three (23) feet in length. The parking space does not have to be paved or graveled.

Section 5. Amendment of Subsection 7.5.5

Subsection 7.5.5 of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

Section 7.5.5 Additions to Non-Conforming Structure:

- (1) The Zoning Administrator shall issue a land use permit for an addition to a lawful non-conforming structure provided all of the following are met: (SEE FIGURE 3)
  - (a) the addition is not located in any required yard or ordinary high water mark setback; and
  - (b) in addition to the above yard and ordinary high water mark setback requirements, all other applicable dimensional requirements on the subject parcel shall be satisfied (other than what is lawfully non-conforming).

Section 6. Amendment of Subsection 7.11.6 (d)

Subsection 7.11.6 (d) of the Peninsula Township Zoning Ordinance is hereby amended to read in its entirety as follows:

Section 7.11.6: SIGN PLACEMENT AND REQUIREMENTS TABLE CONTINUED

- (d) The following signs require a sign permit issued by the Zoning Administrator unless approved by the Township Board either as part of a Special Use Permit or as an Event Permit.

Sign Type	No.	Area	Hgt.	Stbk.	Lt.
Billboard	1	30	10	15	No
Business Center					
With or without Business Identification Signs	1	30	10	***	Yes
Business Identification					
Within a Business Center	1	30	**	**	Yes
**Wall or Marquee/Awning Only					
Not in a Business Center	1	9	10	15	Yes
Church/Non-Profit/Governmental	1	9	6	15	Yes
Entrance Way	1	9	6	15	Yes
Event Sign	1	6	4	0	No
Directional Event Sign	(As approved by the Township Board)				
Ingress/Egress	***	2	3	0	***
Informational	***	2	***	***	***

\*\*\* as per approved site plan

**Section 7. Severability**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity or the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 8. Effective Date.**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

PENINSULA TOWNSHIP

Peter Correia, Supervisor  
Peninsula Township

Monica Hoffman, Clerk  
Peninsula Township

June 29, 2016 1t

**Amendment 192 – Amend Section 7.10.11 Existing Non-Conforming Frontage Roads in its entirety**



*Amend 192*

NOTICE OF ZONING ORDINANCE AMENDMENT ADOPTION

PLEASE TAKE NOTICE that the Peninsula Township Board of Trustees adopted an amendment to the Zoning Ordinance at a regular meeting on July 10, 2017. Section 7.10.11 Existing Non-Conforming Frontage Roads shall now read in its entirety the following:

**Section 7.10.11 Existing Non-Conforming Frontage Roads:**

A lawful non-conforming road may continue to be used to access existing lots and parcels, including new construction or improvements to existing structures which otherwise meet the requirements of the Zoning Ordinance. Non-conforming frontage roads shall not be used to access new lots and parcels created after the effective date of this ordinance amendment (July 24, 2017) unless the road is brought into compliance with current Zoning Ordinance requirements.

The Zoning Ordinance Amendment will be effective eight days following publication of this notice in a newspaper of general circulation within the Township. A complete copy of the Zoning Ordinance Amendment may be purchased or inspected at the office of the Township Clerk during regular business hours or by appointment with the Township Clerk.

Township of Peninsula  
Grand Traverse County, MI

Joanne Westphal, Township Clerk  
13235 Center Rd.  
Traverse City, MI 49686

Record Eagle:  
Please publish July 16, 2017 1t

Amendment 194 – Amend Section 4.2.1 Violations and Penalties in its entirety

Amend 194

LEGAL NOTICE  
NOTICE OF ZONING ORDINANCE AMENDMENT ADOPTION

PLEASE TAKE NOTICE that the Peninsula Township Board of Trustees adopted an amendment to the Zoning Ordinance at a regular meeting on February 27, 2018. Section 4.2.1 Violations and Penalties. shall now read in its entirety the following:

**SECTION 4.2.1 Violations and Penalties:** Any person, firm, association, corporation, company, or other entity which fails to comply with any Peninsula Township Ordinances, Michigan law, or any regulatory measures or conditions imposed by the Planning Commission, Zoning Board of Appeal, or Township Board shall be found in violation. If such violation has not abated, ceased to exist or otherwise been remedied within seven days after written notice of the violation has been sent, the violator will be deemed to be responsible for a municipal civil infraction as defined by Michigan statute. This infraction shall be punishable by a civil fine in an amount to be determined for each violation. The amount will be determined by the Township violation fee schedule, or in an amount determined by the Court, along with all expenses (direct and indirect) incurred by the Township. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as authorized under Michigan law. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

The Zoning Ordinance Amendment will be effective eight days following publication of this notice in a newspaper of general circulation within the Township. A complete copy of the Zoning Ordinance Amendment may be purchased or inspected at the office of the Township Clerk during regular business hours or by appointment with the Township Clerk.

Township of Peninsula  
Grand Traverse County, MI

Joanne Westphal, Township Clerk  
13235 Center Rd.  
Traverse City, MI 49686

Record Eagle:  
Please publish March 5, 2018 1t

**Amendment 195 – Amend Section 6.9.3.7 Deleted and replaced by Section 6.9.3.7 Wetlands and Floodplain Regulations.**

**Add new Section 7.1.3 limit uses on uninhabitable lands**

**Delete Section 7.4.7 in its entirety and replace with Section 7.4.7 Floodplains and Wetland Controls**

Amd 195

## LEGAL NOTICE

### NOTICE OF ZONING ORDINANCE AMENDMENT No 195 ADOPTION

PLEASE TAKE NOTICE that the Peninsula Township Board adopted an amendment to the Peninsula Township Zoning Ordinance No. 2 at a regular meeting held on May 22, 2018 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686.

The full text of the ordinance amendment is as follows:

Section 6.9.3.7 in its entirety is deleted and replaced by:

#### Section 6.9.3.7 Wetland and Floodplain Restrictions

Lands subject to high organic content soils, high water table, flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be used for residential or commercial purposes or for uses that may in the judgment of the ZBA, increase the flood hazard, or increase the danger to health, life, or property. See Section 7.4.7 Flood Plain and Wetland Controls. Such land within a condominium subdivision shall be set aside for uses, such as parks or other open space.

#### Section 7.1.3. (Addition)

Lands subject to high organic content soils, high water table, flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be used for residential or commercial purposes or for uses that may in the judgment of the Planning Commission increase the flood hazard, or increase the danger to health, life, or property. See Section 7.4.7 Flood Plain and Wetland Controls.

Original Section 7.4.7.in its entirety is deleted and replaced by:

#### Section 7.4.7 Flood Plain and Wetland Controls:

##### **(A) Wetland**

Definition of Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. A wetland may or may not be contiguous to the Great Lakes, an inland lake or pond, or a river or stream. This applies to public, commercial, and private lands regardless of zoning or ownership. Wetlands are regulated per Part 303 of the Natural Resources and Environmental Act, 1994 PA 451, as amended.

Development: There shall be no development or modification of any kind within a wetland area without there first having been issued a wetlands permit by the Michigan Department of Environmental Quality (MDEQ) and/or an Earth Change and Storm Water Permit from Peninsula Township. Any such approved development shall be subject to the following:

- (1) A setback of 25 feet shall be maintained between any structure or impervious (including but not limited to parking lot, driveway, paths, etc.) surface and wetland.

- (2) Except as specified in subsection (3), there shall be no development or modification of any kind within a wetland or wetland setback. Wetlands may be used for density calculations and incorporated in Storm Water Management Plans.
- (3) Boardwalks 3 feet or less in width shall be permitted following issuance of a Land Use Permit and subject to MDEQ approval, upon finding there will be no adverse impact on ground or surface waters of the wetland. The Zoning Administrator or Planning Commission, as applicable, may require the applicant to obtain a formal determination of the wetland boundary by the MDEQ.
- (4) Wetland Identification: In the event of reasonable doubt as to the presence of a wetland, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a State of Michigan certified wetland delineator showing the existence, extent, and location of wetland areas. The Zoning Administrator shall use such information provided in making a final determination of the presence of a wetland.
- (5) Compliance with Part 303, Wetlands Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**(B) Flood Plain**

Intent and Purposes: The purpose of these regulations is to protect those areas of the Township which are subject to predictable flooding in the flood plain of the Great Lakes. All land included in the flood plain shall be subject to the requirements and prohibitions specified herein, in addition to the normal zoning district requirements in which the land is located.

- (1) Notwithstanding anything to the contrary in this entire Ordinance, any request to fill in a flood plain of a parcel or a portion thereof, must be evaluated together with the proposed use of the land after the filling in of the flood plain or portion of the flood plain, and such proposed use must be a permitted use as set forth in Section 7.4.7 (B) (3). A request to fill in the flood plain or a portion thereof will not be considered alone and is not permitted.
- (2) Flood Plain Area Identification: Flood plain areas shall be those areas falling below elevation 584 feet North American Vertical Datum of 1988 or in accordance with all FEMA FIRM panel maps effective 8/28/2018 . Such flood plain areas may not be filled in except as specifically set forth and subject to Section 7.4.7 (B) (1) and (3), and (5). The Zoning Administrator shall obtain, review and reasonably utilize, flood elevation data available for federal, state and or local resources. The most recent flood evaluation data received from FEMA shall take precedence. In the event of reasonable doubt as to the location of a flood plain, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a professional engineer, licensed surveyor, plant ecologist, hydrologist, soils scientist or other relevant professional, showing the extent and location of the flood plain areas per Part 31 of the Act, 451 PA 1994, as amended.
- (3) Permitted Uses: In conformity with Section 7.4.7(B)(1), no uses shall be permitted to occur within a flood plain or to occur on a parcel for which a request has been made to fill in the flood plain or a portion thereto, except the following:
  - (a) Gardens, preserves, and low intensity use areas in parks.

- (b) Boardwalks and paths no wider than 3 feet.
  - (c) Yard and setback areas or other open space portions required for any District.
  - (d) Access drives for utility uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.
- (4) Restricted Uses: Any structure where human habitation is contemplated either as a place of residence, place of work, or place of public gathering shall be prohibited from locating in the flood plain as provided by 7.4.7(B)(1). These structures shall be installed above the Base Flood Elevation (BFE).
- (5) Required Conditions For Permitted Uses: To the extent that a request to fill in the flood plain on a parcel or a portion of a parcel along with the permitted use as set forth in Sections 7.4.7 (B)(1) or (3) has been granted, such granting of the request is subject to the following conditions:
- (a) Any work, construction, or filling in the flood plain shall conform to the requirement of Section 7.4 7 of this Article, and permits for such work, construction, or filling in the flood plain shall not be issued unless they receive review and approval by the Zoning Administrator and the Township Engineer.
  - (b) Any work, construction, or filling in the flood plain shall be so fixed to the site as to withstand the force of the expected velocity of flood water. The Zoning Administrator may require professional engineering, licensed surveyor, landscape architect, plant ecologist, hydrologist, or other professional review of any such construction.
  - (c) The Zoning Administrator may request additional information prepared by a registered professional engineer, licensed surveyor, plant ecologist, hydrologist, soils scientist or other relevant professional. Information may include: topographic information, studies to determine the effects of flooding or flow of water, determination that the proposed use will not adversely affect floodplain capacity, and that the proposed use will not generate storm water, sedimentation or other water quality concerns.
  - (d) All of the conditions set forth herein must be fully satisfied before applicant may proceed with the work, construction, or filling in the flood plain, or a portion thereof.
  - (e) Compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.
- (6) Vegetated Buffer Protection: All shoreline properties including flood plain areas shall have a vegetated strip inland of the beach area to filter nutrients and storm water and give protection from lake waves. Use of deep rooted shrubs, tree, and native plants provide greater protection than man-made structures.
- (7) Retaining Wall or Seawalls: Notwithstanding Section 7.4.3(5), there shall be no retaining walls or seawalls in any flood plain area.

The Ordinance Amendment shall take effect 8 days after this publication.

Record Eagle:

Please post: Saturday, June 9, 2018

Please send affidavit and invoice to Peninsula Township

Joanne Westphal, Township Clerk  
13235 Center Rd.  
Traverse City, MI 49686