

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE VI
ADMINISTRATION AND ENFORCEMENT**

Section 6.01 ZONING PERMITS.

1. No building or structure subject to the provisions of this Ordinance shall be erected, substantially altered, reconstructed, used, or moved, nor shall any excavation of land commenced until a zoning permit application has been filed with the Zoning Administrator, or other official designated by the township board, and a zoning permit has been issued by the Zoning Administrator, or other official designated by the township board. Except upon a variance being granted by the Zoning Board of Appeals, no zoning permit shall be issued for the use of any land or for any building or structure where the use, construction, addition, or alteration thereof would be in violation of any provisions of this Ordinance. No zoning permit shall be required for any lawful use of land, building or structure in existence on the effective date of the zoning ordinance or any applicable amendment.
2. Following the issuance of a zoning permit by the Zoning Administrator, or other official designated by the township board, the applicant shall construct the improvements authorized by the zoning permit in complete conformity with the zoning permit and the plans submitted in conjunction with the zoning permit application. Failure to do so shall be deemed a violation of this Ordinance.
3. A zoning permit issued pursuant to this section shall expire one (1) year following issuance, unless substantial construction has begun pursuant to the permit, or prior to the expiration of the permit the property owner applies for and receives an extension of the zoning permit for no more than one (1) year from the Zoning Administrator upon a showing of good cause and that the zoning regulations applicable to the use authorized by the zoning permit have not substantially changed since the issuance of the original permit or the most recent extension of the permit. Upon commencing substantial construction of a building pursuant to a zoning permit issued under this Ordinance, the exterior of the building shall be completed within one (1) year, unless prior to the expiration of this time period the property owner applies for and receives an extension for completing the exterior construction of the building from the Zoning Administrator upon a showing of good cause.
4. The Zoning Administrator shall have the power to revoke or cancel any zoning permit for failure of the zoning permit applicant or owner of the lot on which the improvements authorized by the zoning permit will be located to comply with the provisions of this Ordinance or when false statements or misrepresentations were made in the zoning permit application. The zoning permit applicant and/or owner of the lot on which the improvements authorized by the zoning permit will be located shall be notified of such revocation and the factual basis for such revocation in writing. In addition, the Zoning Administrator shall have the authority to issue a stop work order on work in progress when that work violates any provision of this Ordinance.

5. All zoning permits issued pursuant to this Ordinance shall be displayed face out within twenty-four (24) hours of its issuance by placing the permit in a conspicuous location on the property facing the nearest street. The zoning permit shall be continuously displayed as required in this subsection until all work authorized by the zoning permit is completed.

Section 6.01A POTENTIAL WETLANDS IDENTIFICATION MAP. Potential wetland areas are designated on a Potential Wetlands Identification Map. The property identified as potential wetland areas are not intended to be exclusive, and there could be other areas subject to wetland regulations under state law. Although not an official wetlands designation by the State of Michigan, the areas identified are likely to show the physical and biological characteristics of wetlands. As a result, the Zoning Administrator shall notify each applicant for a zoning permit on property identified as a potential wetland area of the need to contact the Michigan Department of Natural Resources, or other state agency with jurisdiction over wetlands, concerning a wetlands determination and, where necessary, the need to obtain a state wetlands permit prior to the commencement of any construction or development activity on the property.

Section 6.02 ADMINISTRATIVE OFFICIALS. Except as otherwise provided in this Ordinance, the Kearney Township 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 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 6.03 ZONING PERMIT APPLICATION; INSPECTION.

1. An application for a zoning permit shall be filed in writing with the Zoning Administrator, or other official designated by the township board, and signed by the owner of the property or the owner's designated agent. When an agent of the property owner is applying for the zoning permit, the zoning permit application shall be accompanied by a written letter from the property owner giving authorization to the agent to secure the zoning permit. The applicant for a zoning permit shall certify in writing that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. An application for a zoning permit shall be accompanied by the applicable fee established pursuant to Section 6.06 of this Ordinance and by all of the following information, unless waived by the Zoning Administrator showing that the required information is not necessary for determining compliance with this Ordinance:
 - A. Evidence of ownership of all property affected by the proposed zoning permit (deed or land contract).
 - B. The existing and intended use of the property building, or structure.
 - C. A site plan, if required, or a sketch in a scale sufficient to thoroughly detail the location and the dimensions of the lot to be developed; the size, dimensions, location on the lot, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the location and dimensions of

sewage disposal facilities both on the lot to be developed and on adjacent lots; the location of all wells on the lot to be developed and on adjacent lots.

- D. Other information deemed reasonably necessary by the Zoning Administrator to determine compliance with the requirements of this Ordinance.
- 2. No zoning permit shall be issued by the Zoning Administrator, or other official designated by the township board, without that official first conducting a site inspection. The applicant for the zoning permit shall mark all property lines and proposed building or structure sites on the ground and shall notify the Zoning Administrator, or other official designated by the township board, when such markings have occurred.

Section 6.03 A HOME OCCUPATION AND HOME-BASED BUSINESS DECLARATION. The occupant of a dwelling located within the Agricultural District, the R1 Residential District, or the R2 Residential District, upon deciding to conduct a home occupation or home-based business, as permitted in those zoning districts, shall declare his or her intentions by providing information about the home occupation or home-based business on a form approved by the Township Board and provided by the Zoning Administrator. No fees shall be charged for this declaration.

Section 6.04 DUTY TO INSPECT; ADMINISTRATIVE SEARCH WARRANT. It shall be the duty of the Zoning Administrator, or other official designated by the township board, to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator, or other official designated by the township board, shall exercise this right of inspection by consent of the person having the right to possession of the land, building and/or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction.

Section 6.05 AMENDMENTS. Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- 1. Procedure.
 - A. The township board may amend this ordinance (either a text amendment or a rezoning of property) as authorized by the state zoning enabling act, Public Act 110 of 2006, being MCL 125.3101 *et seq.* following the procedures specified in this section.
 - B. Proposals for zoning ordinance amendments may be initiated by the township board, the township planning commission, or by petition of one (1) or more property owners to be affected by the proposed amendment.
 - C. A request for a zoning ordinance amendment shall be processed under the following procedures:
 - 1. The request for a zoning ordinance amendment shall be submitted in writing to the Zoning Administrator. Except for amendments proposed by the township board or the township planning commission, the request shall be accompanied by the fee required by this Ordinance.

2. Upon receiving the written request for a zoning ordinance amendment and the applicable fee, the Zoning Administrator shall transmit the request for a zoning ordinance amendment to the township planning commission for its consideration.
3. The township planning commission shall review the request for a zoning ordinance amendment and may make additions, deletions, or modifications to the original request as it deems appropriate for the orderly development of the township.
4. The township planning commission shall then prepare or cause to be prepared a formal zoning ordinance amendment in proper legal format which reflects the requested amendment as finally determined by the planning commission.
5. After the formal zoning ordinance amendment is prepared, the township planning commission shall hold at least one (1) public hearing on the proposed amendment. The notice for all public hearings before the planning commission concerning proposed zoning ordinance amendments shall comply with the following applicable notice provisions:
 - A. For a proposed amendment to the text of the zoning ordinance, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed zoning ordinance amendment.
 - b. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - c. The places and times at which the proposed zoning ordinance amendment may be examined.
 - d. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
 - B. For a proposed zoning ordinance amendment rezoning an individual property or ten (10) or fewer adjacent properties, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:

- a. A description of the nature of the proposed zoning ordinance amendment.
 - b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
 - c. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - d. The places and times at which the proposed zoning ordinance amendment may be examined.
 - e. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.
 4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property or properties proposed for rezoning and to the occupants of all structures within three hundred (300) feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
- C. For a proposed zoning ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:
1. The content of the notice shall include all of the following information:

- a. A description of the nature of the proposed zoning ordinance amendment.
 - b. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - c. The places and times at which the proposed zoning ordinance amendment may be examined.
 - d. The address where and the deadline when written comments can be sent concerning the proposed zoning ordinance amendment.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.
 4. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
6. When considering a proposed zoning ordinance amendment, the township planning commission shall consider the following applicable factors:
- A. Is the proposed amendment reasonably consistent with surrounding uses?
 - B. Will the proposed amendment cause an unreasonably adverse physical impact on surrounding properties?
 - C. Will the proposed amendment cause an unreasonably adverse effect on property values in the adjacent area?
 - D. Have there been changes in land use or other conditions in the immediate area or in the township in general which justify the proposed amendment?
 - E. Will the proposed amendment create an unreasonable deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - F. Will the proposed amendment grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
 - G. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications or under the current use regulations?

- H. Is the proposed amendment in conflict with the planned use for the property as reflected in the master plan?
 - I. Is the site served by adequate public facilities or is the petitioner able to provide them?
 - J. Are there sites nearby already properly zoned that can be used for the intended purposes?
7. Following the public hearing on the proposed zoning ordinance amendment, the township planning commission shall do both of the following:
- A. The planning commission shall transmit its recommendation concerning the proposed amendment and a summary of the comments received at the public hearing to the township board.
 - B. The planning commission shall transmit the proposed zoning ordinance amendment to the county planning commission for its review and recommendation. If the recommendations from the county planning commission is not received by the township within thirty (30) days from the date the proposed zoning ordinance amendment is received by the county planning commission, then the county planning commission shall be deemed to have waived its right to review and make recommendations concerning the proposed amendment.
8. The township board may hold additional public hearings on a proposed zoning ordinance amendment if it considers it necessary. The township board shall grant a public hearing on a proposed zoning ordinance amendment to a property owner who requests a public hearing by certified mail, addressed to the township clerk. Notice of any public hearing before the township board shall be the same as the applicable notice requirements for a public hearing on a proposed amendment before the township planning commission.
9. After receipt of the recommendations by the county planning commission, or after the expiration of the thirty (30) day county planning commission review period, whichever is sooner, and after conducting any public hearing, the township board shall consider and vote upon the proposed zoning ordinance amendment, with or without amendment. The zoning ordinance amendment shall be approved by a majority of the entire township board and shall be effective eight (8) days after publication of the required notice of ordinance adoption or at such later date after publication as may be specified in the amendment.
10. Once adopted by the township board, the zoning ordinance amendment shall be filed with the township clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation within the township within fifteen (15) days after adoption. The notice of ordinance adoption shall include all of the following information:
- A. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

- B. The effective date of the zoning ordinance amendment.
 - C. The place where and time when a copy of the zoning ordinance amendment may be purchased or inspected.
11. No request for a zoning ordinance amendment rezoning property which has been denied by the township board shall be resubmitted for a period of one (1) year from the date of the last denial, except upon grounds of newly discovered evidence or proof of changed conditions found upon review by the township planning commission to be valid.

Section 6.06 ZONING FEES.

1. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
- A. Building and zoning permits.
 - B. Special use permits.
 - C. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - D. Classification of unlisted property uses.
 - E. Requests to change a nonconforming use to another nonconforming use.
 - F. Requests for variances from the Zoning Board of Appeals.
 - G. Requests for rezoning of property by individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - H. Site plan reviews.
 - I. Requests for a planned unit development (PD).
 - J. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning

Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals 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 the Planning Commission or Zoning Board of Appeals 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 ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals 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 6.07 VIOLATIONS AND PENALTY.

1. Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed, maintained, or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
2. Any person, partnership, corporation, association, or other legal entity who creates or maintains a nuisance per se as defined in subsection A above or who violates or fails to comply with this Ordinance or any permit issued or condition imposed pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance.

3. The Township Zoning Administrator or other person appointed by the Township board is hereby designated as the authorized township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
4. In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Note: Section 6.07 was replaced in its entirety by Zoning Ordinance Amendment No. 11-13-2023A. Adopted on November 13, 2023. Published November 23, 2023. Effective December 1, 2023.

Section 6.08 VALIDITY.

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