



# CHEBOYGAN COUNTY PLANNING COMMISSION

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870 SOUTH MAIN ST. ■ PO Box 70 ■ CHEBOYGAN, MI 49721  
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**CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING  
WEDNESDAY, DECEMBER 7, 2016 AT 7:00 PM  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

## **AGENDA**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **APPROVAL OF AGENDA**

### **APPROVAL OF MINUTES**

### **PUBLIC HEARING AND ACTION ON REQUESTS**

1. An Ordinance to add a new Section 17.29. to the Cheboygan County Zoning Ordinance No. 200 to provide definitions, regulations and standards for Mobile Food Units.

### **UNFINISHED BUSINESS**

1. Review of sign ordinance relative to content based regulation
2. Review of use terminology relative Assembly Halls and Clubs

### **NEW BUSINESS**

### **STAFF REPORT**

1. Discussion regarding enforcement

### **PLANNING COMMISSION COMMENTS**

### **PUBLIC COMMENTS**

### **ADJOURN**



# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO Box 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ TDD: (800)649-3777

## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, NOVEMBER 2, 2016 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

**PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Churchill, Jazdyk  
**ABSENT:** None  
**STAFF:** Scott McNeil  
**GUESTS:** Travis Conners, Renee Conners, Eric Boyd, Tony Matelski, Sharon Churchill, Kevin Tucker, Carl Muscott, Russell Crawford, Cheryl Crawford, John Moore, Cal Gouine, Chris Kindsvatter, Judy Ostwald, Brian Fullford, Mike Ridley, Bob Lyon

The meeting was called to order by Chairperson Croft at 7:00pm.

### PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the agenda as presented. Motion carried unanimously.

### APPROVAL OF MINUTES

The October 19, 2016 Planning Commission minutes were presented. **Motion** by Mr. Churchill, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried unanimously.

### PUBLIC HEARING AND ACTION ON REQUESTS

#### Matthew Cooley And Joan Cooley

Requests a Special Use Permit for storage structure (16ft. x 20ft..) at a campground. (Section 6.3.7). The property is located at 11262 W. US-23., Mackinaw Twp., section 19, parcel #011-019-200-012-00 and is zoned Commercial Development (D-CM).

Mr. McNeil stated that the applicant is requesting a special use permit for a 16ft. x 20ft. storage building to be an accessory to the main use, which is a campground. Mr. McNeil stated that the property is zoned Commercial and campgrounds are a use which require a special use permit. Mr. McNeil stated that no special use permit is on file for this campground. Mr. McNeil reviewed the site plan and noted that the setback requirements will be met. Mr. McNeil stated that there are no other changes.

Mr. Kavanaugh stated that this is a small building on a major road. Mr. Kavanaugh stated that there is an existing buffer. Mr. Kavanaugh stated that the building will be adjacent to an existing office building.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Bartlett, to grant the topography waiver request. Motion carried unanimously.

The Planning Commission added “The proposed structure is to be placed on an existing pad within the footprint of a previously existing structure.” as #5 to the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 subject to meeting Department of Building Safety requirements. Motion carried unanimously.

### **Travis Conners**

Requests a Special Use Permit for boat storage - Section 6.3.14. The property is located at 1225 South Grandview Beach Road, Tuscarora Twp., section 6, parcel #162-006-300-004-00 parcel #162-006-300-005-00, and is zoned Commercial Development (D-CM).

Mr. McNeil stated that this is a request for a special use permit for boat storage and site plan review for outside display of ATV/boats, trailers and accessory items. Mr. McNeil stated that the Planning Commission has received copies of the site plan showing the parking area shaded. Mr. McNeil stated that on the site plan it shows that an existing driveway will be used. Mr. McNeil referred to the site plan and stated that the drive and parking display area is indicated along the westerly boundary neighboring the I-75 exit ramp. Mr. McNeil stated that there is an existing permit for this structure for private storage and this is a request for a change of use to boat storage. Mr. McNeil stated that outdoor storage is proposed to the northeast of the storage building. Mr. McNeil stated that if this request is approved he recommends a condition that the signs meet the Zoning Ordinance and any new signage requires permits. Mr. McNeil also recommended a condition that Department of Building Safety requirements be met. Mr. McNeil stated that no lighting is proposed at this time, but any future lighting should be indicated on the site plan. Mr. McNeil stated that this parcel is zoned Commercial and a special use permit is required for boat storage and the other uses require site plan review.

Mr. Freese stated that 12 spaces are indicated on the east side on the storage building. Mr. Freese asked if these spaces are parking spaces. Mr. Conners stated that 12 spaces were included on the site plan as it is required. Mr. Freese asked if these parking spaces will be used for employee parking, sales or repairs. Mr. Conners stated no. Mr. Freese asked Mr. Fullford if the 100ft. easement indicated on the site plan is a state highway easement. Mr. Fullford stated yes and that this easement was used in the 1930's for the construction of the highway. Discussion was held.

Mr. Jazdyk asked Mr. Conners what will be displayed and how much will be displayed in the outdoor display area. Mr. Conners stated that typically along I-75 you see people displaying products and boats. Mr. Conners stated that all business will be conducted at the Sports Center across the street. Mr. Conners stated that this is merely a display area to show products. Mr. Conners stated the equipment will be hauled from the site to the Sports Center. Mr. Conners stated no employees will be on site. Mr. Conners stated that this will be a display area. Mr. Conners explained that the boats being stored will be taken out in the spring and taken to the store to be prepped and delivered to the customers. Mr. Jazdyk asked will a boat be brought to the store if a customer would like to look at it. Mr. Conners stated the customers will be able to drive to this display area and look at the boats. Mr. Jazdyk asked if there will be some retail traffic. Mr. Conners stated yes. Mr. Jazdyk asked if only boats and boat docks will be displayed at this location or will snowmobiles, dirt bikes and other outdoor equipment be displayed at this location. Mr. Conners stated other items may be displayed at this location, but it depends on the time of the year. Mr. Jazdyk stated the Planning Commission received a letter from a property owner in the area who is concerned about the road condition. Mr. Jazdyk noted that most of the traffic associated with this storage building will occur in the spring and fall. Mr. Jazdyk asked Mr. Conners how much traffic will occur on this road. Mr. Jazdyk asked how many boats will be stored. Mr. Conners stated there will be 30-50 boats which means there will be less than 100 trips per year. Mr. Conners stated this traffic would typically happen before the start of summer and after the end of summer. Mr. Conners stated the increase in traffic on Grandview Beach Road will be minimal.

Mr. Bartlett asked if a customer will go to the Sports Center to make a purchase. Mr. Bartlett asked if items are kept in stock at the Sports Center. Mr. Conners stated that he houses 50 jets skis and he may put a hoist and a jet ski on display on this parcel. Mr. Conners stated that if a customer is interested he will be shown the same one on display in the showroom. Mr. Conners explained that a customer may like to see the only blue pontoon boat which is on display at the parcel on Grandview Beach Road.

Mr. Kavanaugh asked Mr. Conners for a list of all of the items that he may display on this parcel. Mr. Kavanaugh stated that there will also be an increase in traffic due to customers that are visiting the site to view the items on display. Discussion was held.

Mr. Kavanaugh stated that there have been a lot of misunderstandings about this project. Mr. Kavanaugh stated that in early summer Mr. McNeil indicated that a special use permit would be required for this project. Mr. Kavanaugh stated that Planning Commission members noted that there were trailers stored that do not meet the standards. Mr. Kavanaugh stated a parking lot was put in, the site was cleared of trees on the west side and topography was changed in preparation for a building. Mr. McNeil stated that Mr. Conners applied for a special use permit and a private storage building on the same day. Mr. Kavanaugh stated that Mr. Conners decided to apply for the private storage building which was started without permits. Mr. Kavanaugh stated a building permit was issued on 10/03/16.

Mr. Tucker stated the enforcement action was taken during the time that Mr. Fullford was working on the site plan review application. Mr. Tucker stated that the site plan review application was filed on 09/14/16. Mr. Tucker stated that the fee was paid and everything was moving forward except that they were not accomplishing their objective as quickly as they needed. Mr. Tucker stated that on 09/14/16 they received zoning approval from Mr. McNeil and then applied for the building permit for construction of a private storage building. Mr. Tucker stated that this is a perfectly lawful procedure. Mr. Tucker stated that they should not be criticized because they are entitled to a zoning permit for a private storage building and that they filed an application for the same building for a commercial use. Mr. Tucker stated that the ordinance allows for this to be done and he believes that this was suggested by Mr. McNeil. Mr. Tucker stated that Mr. Connors applied for the building permit on 10/03/16 and that he advised the Department of Building Safety that he had contractors and employees waiting to start working on the building on Monday. Mr. Tucker stated that normally a building permit for a private storage building is granted quickly, but for some reason this permit was not approved quickly. Mr. Tucker stated that Mr. Connors was advised that someone will have to review the plans. Mr. Tucker stated that Mr. Connors told the Department of Building Safety that he is starting the project on Monday and footings will be done on Tuesday. Mr. Tucker stated that Mr. Connors was told that the inspector was not available on Tuesday and they didn't know when the inspector would be available. Mr. Tucker stated that the Department of Building Safety did not know when the plan would be reviewed. Mr. Tucker explained that Mr. Connors is paying all of the application fees for the private storage building and he is being told that he has to stop everything because someone is on vacation and not available. Mr. Tucker stated that the footings were covered and the inspector showed up on 10/10/16 and stated he couldn't approve the inspection as the footings were covered up. Mr. Tucker stated that they were informed that they could hire a registered design professional to perform a third party inspection of the foundation. Mr. Tucker stated that the inspection was completed on the following Monday. Mr. Tucker stated that all of the criticism regarding Mr. Connors not following the proper procedures is actually just a misunderstanding because people do not understand how the process works. Mr. Tucker stated that the building is ready for a final inspection. Mr. Tucker stated that Mr. Connors will have to have to pay another \$400 for a building permit for a change of use to a commercial use. Mr. Tucker stated that since the first site plan was approved for this property, Mr. Connors has paid over \$25,000 in fees for permits. Mr. Tucker stated that Mr. Connors has 35 employees. Mr. Tucker stated that we need to find a way to work together.

Mr. Kavanaugh stated that if everyone operated this way there would be no reason to have planning and zoning. Mr. Kavanaugh stated that this is not totally Mr. Connors problem. Mr. Kavanaugh stated that this is also an enforcement problem. Mr. Kavanaugh stated that the cart is before the horse in many of these projects. Mr. Kavanaugh stated that he did not know that the inspector was not available. Mr. Tucker stated that they accept responsibility for their shortcomings. Mr. Tucker stated that he heard there are three different departments in the County Building with three different databases and different addresses. Mr. Tucker stated that he understands that they are responsible to put the proper address on the application, but they paid the price by having to wait an additional two weeks to have this application reviewed tonight. Mr. Jazdyk stated that the address was not something that the Planning Commission was worried about and it was not a big issue. Mr. Jazdyk stated that the method that was used to apply is totally different than what the Planning Commission is used to and the builders normally know the rules. Mr. Jazdyk explained that it is not a long process. Mr. Jazdyk stated he is concerned about the amount of money that people have to spend on permits. Mr. Jazdyk explained that it is difficult to work on reviewing these applications after the fact. Mr. Jazdyk stated that he had to spend more time reviewing this application.

Mr. Freese stated that the Planning Commission has discussed these types of situations in the past. Mr. Freese stated that this is just one more incident of what has come up in the past and what will come up again in the future. Mr. Freese stated that he contacted legal counsel. Mr. Freese noted that a copy of a letter from legal counsel was distributed to the Planning Commission members. Mr. Freese stated that this problem has come up in other jurisdictions where they provide legal support. Mr. Freese stated legal counsel has provided a copy of an ordinance which addresses the problem. Mr. Freese stated that the site plan review/special use permit procedure addresses changes in vegetation and changes in topography. Mr. Freese stated that in this particular case the owner has cleared the property, removed the vegetation and leveled an area to construct the building. Mr. Freese stated that Mr. Connors has right to make these changes. Mr. Freese stated that the Planning Commission can have no objections to that other than that is not what we really want. Mr. Freese stated that if this is not what the Planning Commission wants, then the regulation will have to be changed, which will not have any bearing on this application.

Mr. McNeil stated that the idea to apply for a private storage building was first brought to him as a question from Mr. Fullford. Mr. McNeil stated that he did not suggest applying for a private storage building.

Mr. Kavanaugh stated that the buffer, which has been removed, could be required if the Planning Commission approves the request. Mr. Kavanaugh stated that he believes the application is incorrect because the application indicates only minor work was done. Mr. Kavanaugh stated that it is major work to change the contours and remove every tree. Mr. Kavanaugh stated it is important that the Planning Commission receives correct applications. Mr. Kavanaugh stated that this is legal to submit a

zoning application for private storage, but the applications for a zoning permit and special use permit were submitted on the same day. Mr. Kavanaugh stated that Mr. Conners knows that the buffer should remain. Mr. Kavanaugh stated that the Planning Commission should look at the letters that were received from the adjacent property owners who are concerned about traffic and safety issues and the quality of the road. Mr. Kavanaugh stated that this is a curved, residential street with an exit nearby and there will be big boats and trailers using this road. Mr. Kavanaugh believes there should be an independent study. Mr. Fullford stated that these neighbors are located approximately one mile away. Mr. Fullford stated that he talked with Brent Shank (Cheboygan County Road Commission Manager) this afternoon. Mr. Fullford stated that Mr. Shank told him that he had no concerns regarding this request as this is an existing commercial driveway onto a paved road. Mr. Fullford explained that there are no issues with sight distance. Mr. Kavanaugh stated that the Planning Commission does not require an independent study very often, but when it is important the Planning Commission may discuss this as an option. Mr. Tucker stated that Debbie Tomlinson sent an email on 10/14/16 to Mr. Shank asking for him to comment. Mr. Tucker stated that Mr. Shank determined that there was nothing in this site plan that required Road Commission input and he did not comment even though he had the opportunity. Mr. Jazdyk stated that just because Mr. Kavanaugh suggests a traffic study does not mean that it is the end result. Mr. Jazdyk stated that many times the Planning Commission requires that a letter from Brent Shank be submitted that he has no objections to the site plan. Mr. Jazdyk stated that the Planning Commission is pretty accommodating and they are not a difficult group to work with.

Ms. Croft asked for public comments. Mr. Ridley stated that things happen fast in Indian River and people take chances all of the time. Mr. Ridley stated that this may create more jobs and he supports this request. Public comment closed.

Mr. Kavanaugh asked if this can be reviewed with the traffic and the road repair issue without tabling or denying. Mr. McNeil stated that the Planning Commission approved Heritage Cove Farm's application with a condition that comments be submitted from Tuscarora Township Police and Road Commission. Mr. Freese stated that he has no problem with requesting a written response from the Road Commission. Mr. Kavanaugh stated that he does not want to hold this application up for a traffic study. Discussion was held.

Mr. Ostwald stated that people are concerned about the road being ruined. Mr. Ostwald stated that one load of logs going down this road will weigh more than 50% of the boats that will be stored all summer. Mr. Ostwald stated that the boats are not going to damage the road. Mr. Ostwald stated that he understands why Mr. Shank would not comment on this request if there is good vision of ½ mile each way. Mr. Ostwald stated that this request should not be held up. Mr. Ostwald noted that the Planning Commission can request a written response from Mr. Shank.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried unanimously.

The Planning Commission reviewed the General Findings and revised #2, "The applicant is requesting site plan review approval for the display of ATVs, Trailers, Snowmobiles, Boats, Boat docks and Trailers." The Planning Commission added "The site is to not have any on site personnel for sales or service and/or repair. Parking is strictly for anyone coming to view the displayed merchandise." as #7.

The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Jazdyk, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 subject to the following conditions:

1. Department of Building Safety requirements be met
2. Health Department requirements be met
3. Signage to meet section 17.19 of Cheboygan County Zoning Ordinance #200
4. Any proposed lighting will have to be indicated on the site plan
5. Submit a statement from the Road Commission that there are no objections to the entrance to Grandview Beach Road

Motion carried unanimously.

### **Travis Conners**

Requests a Site Plan Review Amendment for a change of use from storage to Boat/ATV sales (Section 6.2.4). The property is located at 562 S. Straits Hwy., Tuscarora Twp., section 1, parcel #162-001-400-003-00 and is zoned Commercial Development (D-CM).

Mr. McNeil explained that the Planning Commission reviewed a site plan amendment in November 2014 for this parcel. Mr. McNeil stated that there was an administrative approval to change the size of the building in 2015. Mr. McNeil reviewed the site plan and detailed site plan that was approved by the Planning Commission in November 2014. Mr. McNeil stated that an additional 8 parking spaces are required due to the change of use from storage to showroom area. Mr. McNeil noted the location of additional outdoor display. Mr. McNeil stated that these are the only two changes. Mr. McNeil stated that with the additional parking spaces, all of the requirements are met. Discussion was held regarding the areas that are currently being used for outdoor storage. Discussion was held regarding the additional areas that Mr. Conners is requesting approval for outdoor storage. Mr. Freese stated the area along the retention pond can not be used as outdoor storage unless it is added to the site plan. Mr. Conners stated that he would like to add the area next to the retention pond to the site plan to be used as outdoor storage. Mr. Freese stated that a revised drawing will have to be submitted.

Mr. Kavanaugh asked what prompted this application. Mr. Kavanaugh asked if this is in response to an enforcement action. Mr. McNeil stated yes. Discussion was held. Mr. Tucker explained that Mr. Conners did not know that Planning Commission approval is needed to convert a storage area to retail space. Mr. Tucker stated he is not sure that you can read the ordinance in a way that can let the applicant know that Planning Commission approval is required. Mr. Tucker stated that if this is what the Planning Commission wants, then it should be clear in the ordinance. Mr. Freese stated that it is clear because it changes the use and the parking requirements. Mr. Tucker stated that it is clear because the Planning Commission understands it, but the applicant does not understand that approval is needed for a change from storage to selling a snowmobile. Mr. Kavanaugh stated that there may be structural changes that need to be reviewed by Department of Building Safety. Mr. Kavanaugh stated that it does not happen very often that applicants do not understand. Mr. Tucker stated that when Mr. Conners decided to change the use from storage to retail space, he checked with the Department of Building Safety to ensure that he was doing everything necessary that is required under the building code. Mr. Kavanaugh asked if this is before the enforcement action. Mr. Tucker stated yes. Discussion was held.

Ms. Croft asked for public comments. Mr. Muscott stated that he appreciates that the Planning Commission has identified issues. Mr. Muscott stated that Mr. Conners may see him as an enemy, but he attends these meetings because he likes to see the community more business friendly. Mr. Muscott stated that the original site plan for Mr. Conners was approved in 2008 and there have been many amendments reviewed by the Planning Commission. Mr. Muscott stated it appears that if a hoist is moved from one end of the lot to the other it will require Planning Commission approval. Mr. Muscott stated that this identifies a need to simplify the process for a business owner. Mr. Muscott stated that it seems wasteful to have the business owners have every change in use approved by the Planning Commission.

Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried unanimously.

The Planning Commission reviewed the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Churchill, to approve the site plan based on the General Findings and the Specific Findings of Fact Under Section 20.10 subject to the following conditions:

1. Department of Building Safety requirements be met
2. Revised site plan be submitted showing the additional storage areas

Motion carried unanimously.

### **Jeff Jakeway**

Requests a Site Plan Review Amendment for specialty retail of brick and stone and outdoor storage and display (Section 6.2.19) The property is located at 5026 S. Straits Hwy., Tuscarora Twp., section 35, parcel #161-035-200-011-00 and is zoned Commercial Development (D-CM).

Mr. McNeil stated that the last site plan that was approved by the Planning Commission for this site was for a physical therapy business. Mr. McNeil stated that the site plan is being amended for specialty retail with specific concern to the expansion of the outdoor display. Mr. McNeil noted that the most recent use on this site was retail. Mr. McNeil stated there was some outdoor display with the previous use. Mr. McNeil referred the site plan and noted the areas of outdoor display for the stone. Mr. McNeil noted the locations for parking and stated that parking requirements have been met. Mr. McNeil stated that there is a sign indicated on the site plan. Mr. McNeil referred to an email from Brent Shank (Cheboygan County Road Commission Engineer/Manager) to Jeff Jakeway (exhibit 7) and stated that any signs and displays need to be a minimum of 33ft. from the

centerline of Straits Highway and Fisher Woods Road. Mr. McNeil stated that if approved, the Planning Commission could condition the approval based on this requirement.

Mr. Jakeway stated that he purchased this property in 2010 and did not know that site plan review was required until he was contacted by Mr. Schnell. Mr. Jakeway stated that the display on Straits Highway is 38ft. from the centerline and the display on Fisher Woods is 44ft. from the centerline. Mr. Jakeway stated that none of the displays are over 4 1/2ft. in height so it is sight accessible for cars going either way. Mr. Jakeway stated that he is not constructing any new buildings. Mr. Jakeway stated that he is simply selling stone.

Ms. Lyon asked how many parking spaces are required for this site. Mr. McNeil stated 8 are required and 10 are indicated on the site plan. Discussion was held.

Ms. Croft asked for public comments. Mr. Ridley stated that this was a vacant building for a few years until Mr. Jakeway bought the property. Mr. Ridley stated that he is in favor of this request. Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried unanimously.

The Planning Commission reviewed and approved the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Churchill, to approve the special use permit based on the General Findings and the Specific Findings of Fact Under Section 20.10. Motion carried unanimously.

## **UNFINISHED BUSINESS**

### **Boat Shelter Survey**

Mr. McNeil reviewed the draft post card for notice of the web based survey, the draft introduction statement for the survey and the draft survey. Mr. Freese referred to the third paragraph of the draft post card and requested that the first sentence be changed to "The Planning Commission is considering a recommendation to amend the zoning ordinance to allow boat shelters (roof, but no sides) over boat wells on the Cheboygan River, Indian River and Lower Black River and any canals attached to them." Discussion was held regarding delaying this survey until spring. Mr. McNeil stated that he will bring this back for the Planning Commission to review again and he will provide a list of stakeholders.

### **Mobile Food Units**

Mr. McNeil stated that the proposed amendment has been reviewed by legal counsel. Mr. McNeil stated that the suggested changes are in bold print. Mr. McNeil stated that the changes to the definition of vehicle were taken from the code. Mr. McNeil stated that "governmental unit" was suggested by legal counsel in section 17.29a so there will be consistency. Mr. McNeil stated section 17.29c has been simplified by changing it to "The use of a mobile food unit shall be limited to food sales." Mr. McNeil stated that former section 17.29.i. was recommended to be removed as this provision reads in the negative and the remainder of the provisions in this section read in the positive. Discussion was held regarding these mobile food units only being allowed in the Commercial Development Zoning District. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to schedule a public hearing for the proposed amendment regarding Mobile Food Units for December 7, 2016. Motion carried unanimously.

## **NEW BUSINESS**

No comments.

## **STAFF REPORT**

Mr. McNeil stated that he will provide recommendations regarding the sign ordinance (temporary signage) at the 12/7/16 Planning Commission meeting.

Mr. McNeil stated that regarding Village Center Indian River, he would like to prepare a memo to Tuscarora Township and Tuscarora Township Planning Commission that would list our recommendations. Mr. McNeil stated that he will attend a Tuscarora Township meeting for further discussion. Discussion was held.

Mr. Freese stated that Brent Shank has clarified that signs and displays are acceptable as long as they are 33ft. from the centerline of the highway. Mr. Freese stated this is similar to the changes that he proposed along Straits Highway from the expressway south to the county line, but the Road Commission stated that they need that space because of snow plowing. Discussion was held.

Mr. Freese stated that a letter from legal counsel has been provided to each Planning Commission member. Mr. Freese stated this letter is regarding the Meridian Charter Township Land Clearing Ordinance. Mr. Freese stated that the regulation can be changed to prevent the clearing of property (over a specific number of square feet) in the Commercial Development Zoning District prior to Planning Commission approval. Discussion was held.

Mr. Kavanaugh stated that it is evident that communication is needed between Department of Building Safety and Planning & Zoning Department. Mr. Kavanaugh stated that there is limited enforcement, which results in additional issues for the Planning Commission. Mr. McNeil stated that enforcement will be discussed at a future meeting. Discussion was held.

**PLANNING COMMISSION COMMENTS**

No comments.

**PUBLIC COMMENTS**

Mr. Muscott thanked the Planning Commission for their work on the boat house survey. Mr. Muscott stated that he talked with the DEQ and was informed that Cheboygan County enforces Act 91 (Soil and Sedimentation). Mr. Muscott stated that permits were issued after the fact for Mr. Shovan and Mr. Conners projects. Mr. Muscott stated the DEQ informed him that the county is enforcing a resolution, not an ordinance. Mr. Muscott stated if there are violations that go to court, the money will go to the State of Michigan because there is a resolution,. Mr. Muscott stated state law is being enforced without a possible chance of recouping any fees. Mr. Muscott stated that these projects should not continue without enforcement.

**ADJOURN**

**Motion** by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:41pm.

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Charles Freese  
Planning Commission Secretary



# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO Box 70 ■ CHEBOYGAN, MI 49721  
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## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, NOVEMBER 16, 2016 AT 7:00 P.M. ROOM 135 – COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING

**PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk

**ABSENT:** Croft, Churchill

**STAFF:** Scott McNeil

**GUESTS:** Tony Matelski, Carl Muscott, Russell Crawford, Cheryl Crawford

The meeting was called to order by Vice-Chairperson Borowicz at 7:00pm.

### PLEDGE OF ALLEGIANCE

Vice-Chairperson Borowicz led the Pledge of Allegiance.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the agenda as presented. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), 0 Nays, 2 Absent (Croft, Churchill)

### PUBLIC HEARING AND ACTION ON REQUESTS

#### Tuscarora Township

Requests a Site Plan Review Amendment for relocation of playground equipment structure in an existing township park (Sections 6.2.1., 5.2.1. and 4.2.4.) The property is located at 3471 Club Rd., Tuscarora Township, section 24, parcel #161-I31-012-002-00, 161-I31-012-003-01 and 161-I31-012-003-02 and is zoned Commercial Development (D-CM).

Mr. McNeil stated that in June 2016 Tuscarora Township received site plan approval for the playground equipment. Mr. McNeil stated that Tuscarora Township is proposing a new location for the playground equipment. Mr. McNeil stated that the equipment will be moved approximately 45ft. and this will require Planning Commission approval. Mr. McNeil stated that there are no other changes.

Mr. Borowicz asked for public comments. Mr. Muscott explained that Tuscarora Township originally held a public hearing regarding the playground equipment and has not held a second public hearing for the relocation of the equipment. Mr. Muscott believes that the Planning Commission should table this request to allow Tuscarora Township to hold a second public hearing so the public will have an opportunity to voice their opinion. Mr. Freese noted that a public hearing is being held tonight. Mr. Muscott explained that this site plan review is not noticed like a Zoning Board of Appeals meeting is noticed. Mr. Muscott stated that this playground equipment will now be closer to front yards than what was approved at the original Tuscarora Township public hearing.

Ms. Lyon asked why the location for the playground equipment has been moved. Mr. Ridley explained that the original location was too close to the pavilion and the lot line. Mr. Ridley stated that this was not a good location as the playground equipment will take up a larger area because of the chips that need to be laid down. Ms. Lyon asked how far the playground equipment will be from the bathroom facility. Mr. Ridley stated that it will not be much different than the original location. Ms. Lyon asked where the parking for the playground equipment will be located. Mr. Ridley stated there is existing municipal parking to the west. Ms. Lyon asked if there are any concerns regarding traffic with River Street and the North Central State Trail. Mr. Ridley stated no. Discussion was held.

Mr. Kavanaugh asked if Tuscarora Township submitted an application or if this is the result of an enforcement action. Mr. McNeil stated that the playground equipment was noted to be in a different location than what the Planning Commission approved and that it required an amendment.

Mr. Jazdyk asked if there is typical protocol when there is a project like this that requires a public hearing. Mr. Muscott stated his concerns regarding the relocation of the playground equipment and that Tuscarora Township should hold a second public hearing.

Mr. Cherveney stated that he is on the Marina Park Commission and a public hearing was not held. Mr. Cherveney stated that they hold public meetings that are open to the public. Mr. Cherveney stated that when this playground equipment was discussed there were no issues. Mr. Cherveney stated that people donated time and money and this will be a memorial to their grandson. Mr. Cherveney stated that this was shown at the Tuscarora Township board meetings and the Marina Park Commission meetings. Mr. Cherveney stated that if there were any objections to the playground equipment they would have heard about it. Mr. Muscott stated that he talked with Courtney who stated that the people in opposition voiced their opinion after the playground equipment was built. Mr. Muscott stated that they understood that the playground equipment would be located next to the pavilion and now it is located next to their front yard. Mr. Muscott stated that they did voice their opinion and Craig Waldron, who is on the Marina Park Committee, has suggested a buffer.

Public comment closed.

Mr. Kavanaugh asked if a public hearing was held specifically for the playground equipment. Mr. Cherveney stated no, that the Marina Park Commission held an open meeting and it was also discussed at Tuscarora Township board meetings. Discussion was held.

Mr. Freese stated that Cheboygan County's notification procedures have been followed. Mr. Freese stated that the procedures at the township level are not our concern. Mr. Freese noted that Tuscarora Township should have come back for Planning Commission review prior to installing the playground equipment at a new location and then this could have been addressed. Mr. Freese stated that he does not see any problem with the new location. Discussion was held. Mr. McNeil stated that notifications are not mailed to the property owners with a site plan review. Mr. McNeil stated that the township has applied what they do at their level which is different than the Planning Commission's scope of review. Mr. McNeil stated that he believes that the Planning Commission should review the application.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), 0 Nays, 2 Absent (Croft, Churchill)

The Planning Commission reviewed the General Findings. The Planning Commission reviewed and approved the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the site plan review amendment based on the General Findings and the Specific Findings of Fact Under Section 20.10. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), 0 Nays, 2 Absent (Croft, Churchill)

#### **UNFINISHED BUSINESS**

##### **Recommendations relating to restaurant, auto repair, gas stations and party stores in the Village Center Indian River (VC-IR) and Village Center Indian River Overlay (VC-IR-O) zoning districts.**

Mr. McNeil presented a draft letter that would be a follow-up letter to the meeting that was held in Tuscarora Township. Mr. McNeil stated that this letter relates to some work that the Planning Commission has been doing with regards to auto repair uses and restaurant use review and recommendations to Tuscarora Township as they might relate to those uses. Mr. McNeil reviewed the letter with the Planning Commission and stated that the current restaurant use listing is in both the Village Center Indian River and the Village Center Indian River Overlay zoning districts. Mr. McNeil stated that he recommends that the restaurant use remain and subject to the new definition. Mr. McNeil stated that there is a use listing for bars and taverns in both the Village Center Indian River and the Village Center Indian River Overlay zoning districts. Mr. McNeil recommends that this use be changed to bar with the proposed definition. Mr. McNeil stated that he had advised Supervisor Ridley that he would attend a future Tuscarora Township meeting if the township would like to discuss the recommendations.

Mr. Kavanaugh stated that bars with entertainment should be treated differently due to the impact on the adjacent property owners. Discussion was held. Mr. Freese stated that just because the state approves a bar license with entertainment does not mean that the Planning Commission must go along with it. Mr. Borowicz stated that he believes that this is where we should ask the township. Mr. Bartlett stated he is not in favor of telling someone what they can or can not do. Mr. Bartlett asked what is considered entertainment. Mr. Bartlett asked if karaoke is considered entertainment or is a band considered entertainment. Mr. Bartlett asked if the band will have to quit at 11:00pm. Mr. Bartlett stated that this is not the Planning Commission's job. Mr. Bartlett stated that the Planning Commission should then define entertainment. Ms. Lyon stated that maybe the issue is where the bars with entertainment are allowed. Ms. Lyon stated that a bar with entertainment should not be allowed in the middle of a residential area. Discussion was held.

Discussion was held regarding whether or not to keep the definition of a drive-through restaurant. Mr. McNeil explained that the definition of drive-through is there in case a restaurant or a bank wants a drive through component.

Mr. Jazdyk noted that the definitions of carry out restaurant and drive-in restaurant are almost identical. Mr. Jazdyk questioned if there is a need to have two similar definitions. Mr. McNeil stated that the two definitions were combined at one time and the Planning Commission discussed wanting them as separate definitions. Mr. McNeil stated that he can combine the two definitions. Mr. Freese stated if these two definitions are combined all will be forced to deal with the more restricted parking requirements.

Mr. McNeil stated that he recommended that the current use listing in the Village Center Indian River zoning district of Gasoline Service Station and Garages be replaced with Motor Vehicle Service Station. Mr. McNeil stated that he also recommended replacing the current use listing in the Village Center Indian River zoning district of Auto Repair and Washing Establishment with Motor Vehicle Repair and Car Wash. Mr. Freese stated that he has no objections to this and that Tuscarora Township will review the proposed recommendations.

**Review of office use subject to discussion relative to Village Center Indian River (VC-IR0 and Village Center Indian River Overlay (VC-IR-O) zoning districts.**

Mr. McNeil stated that he is proposing uses that are associated with the Office definition be separated into office, barber shop, beauty shop, and exercise studio.

Mr. Jazdyk stated some beauty shops take on a spa component where you can have a massage or suntan. Mr. Jazdyk questioned where spa services fall into these definitions. Mr. Jazdyk suggested changing the Beauty Shop definition to Spa/Beauty Shop. Mr. McNeil stated he will look into this use. Mr. Freese explained that he believes Beauty Shop and Barber Shop can be combined. Discussion was held.

**NEW BUSINESS**

**Temporary Signs**

Mr. McNeil stated that during the public hearing there was more discussion about political signs and how they may be accommodated under our temporary sign provisions. Mr. McNeil stated that as a result a survey was conducted just before the most recent election. Mr. McNeil stated that he recommends changing temporary signage so that it allows more signage during a period of time before a governmental election. Mr. McNeil stated that he inserted 30 days into the proposed amendment. Mr. McNeil stated that he is recommending a maximum of 6 signs and no more than 32sf.

Mr. Freese stated he does not know whether the 30 days is realistic. Mr. Freese suggested changing the 30 days to 45 days. Mr. Borowicz noted that some political signs are up before the primary and stay until the election is done. Mr. Jazdyk questioned who will police these signs. Mr. McNeil stated that it would be the Planning and Zoning Office and the Road Commission as 90% of the signs are in the right of way. Ms. Lyon asked if political signs should be exempt. Mr. McNeil stated that we can not judge a sign based on content. Discussion was held.

**STAFF REPORT**

No comments.

**PLANNING COMMISSION COMMENTS**

No comments.

**PUBLIC COMMENTS**

Mr. Muscott stated there is an Attorney General's opinion that he forwarded to Mr. McNeil. Mr. Muscott stated that Attorney General Frank Kelly gave an opinion in 1984. Mr. Muscott stated "Political campaign signs are a form of speech protected by US Constitutional Amendment I and Constitution 1963, Article 1, Section 5. The posting of political campaign signs on private property may not be limited by a municipality to a specified number of days preceding an election." Mr. Muscott stated that Attorney General Kelly meant that nothing within our state constitution gives the Planning Commission the power to limit how many days prior to an election that a sign can be put up. Mr. Muscott stated that if someone wanted to put up an election sign for 2020 that should be their right. Mr. Muscott stated that it does say that a municipality may require that political campaign signs be removed in not less than 10 days after a general or special election. Mr. Muscott read from the Attorney General Kelley's opinion, "A municipality may reasonably regulate the size of political campaign signs on private property, provided that it does so in a manner that preserves the efficacy of the medium, and also provided that the sign is of sufficient dimension to enable a person travelling by vehicle or on foot to readily perceive the message." Mr. Muscott stated that with the limitation of 32sf per parcel in the proposed amendment, you would only be able to put up one banner but it could not be taller than 4ft. in height. Mr. Muscott stated there have been court of appeals actions in other states that have determined that this Supreme Court decision does not preclude the Planning Commission from

regulating commercial signs. Mr. Muscott stated that in an opinion regarding Good News Presbyterian Church vs. Town of Gilbert, dated December 2, 2015, the Office of Attorney General in Arizona stated that their state laws stands because it was not based on content and that it was based on location. Mr. Muscott stated that Arizona has tourism zones where signs are not regulated. Mr. McNeil stated that there is conflict as a result of the most recent Supreme Court decision and this amendment is to be reviewed by legal counsel. Mr. Freese stated the proposed amendment is content neutral and if a court determines that political signs can not be regulated we still have the right language in the ordinance.

**ADJOURN**

**Motion** by Mr. Freese to adjourn. Motion carried. Meeting was adjourned at 7:52pm.

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Charles Freese  
Planning Commission Secretary

DRAFT



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

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**Date: November 16, 2016**

**To: Planning Commission**

**From: Scott McNeil, Planner**

**Re: December 7, 2016 Public Hearing regarding proposed new Section 17.29 to the Cheboygan County Zoning Ordinance #200 to provide definitions, regulations and standards for Mobile Food Units.**

Due to the multi-site nature of mobile food units, also known as food trucks, a different method of review and permitting is being proposed via the subject amendment. The amendment document is included with this memo.

Currently mobile food units fall under a restaurant use which would require site plan review or special use permit approval for each location where a mobile food unit would like to operate. The subject amendment will provide a procedure for review and approval for a site where a mobile food unit would like to operate within the Commercial Development zoning district via a zoning permit.

Section 1 of the amendment document provides definitions for Mobile Food Unit and Vehicle. Section 2 of the amendment document allows Mobile Food Units to be approved for use on a lot in the Commercial Development zoning district. The regulations and standards are listed under Section 3 of the amendment document.

I will look forward to reviewing the proposed amendment with the Planning Commission and others interested in this subject during the public hearing.

**DRAFT for December 7, 2016 Public Hearing**

**CHEBOYGAN COUNTY**

**Zoning Ordinance Amendment #\_\_\_\_\_**

AN ORDINANCE TO AMEND THE CHEBOYGAN COUNTY ZONING ORDINANCE No. 200 TO PROVIDE DEFINITION, REGULATIONS AND STANDARDS FOR MOBILE FOOD UNITS.

THE COUNTY OF CHEBOYGAN, STATE OF MICHIGAN ORDAINS

**Section 1. Amendment of Section 2.2.**

Section 2.2 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add the following new definition its appropriate alphabetical location, which new definition shall read in its entirety as follows:

**Mobile Food Unit**

A temporary establishment that is a vehicle-mounted food service designed to be readily movable without disassembly where food and beverages are served primarily for consumption off-premises, but may have limited outdoor seating.

**Vehicle**

Every device that possesses a current license registration under the laws of the State of Michigan in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

**Section 2. Amendment of Section 6.2.**

Section 6.2. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new Section 6.2.30. which shall read in its entirety as follows:

6.2.30. Mobile food units, subject to the requirements of Section 17.29.

**Section 3. Amendment of Article 17.**

Article 17 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new Section 17.29, which shall read in its entirety as follows:

Section 17.29. Mobile food unit.

A mobile food unit shall comply with the following regulations and standards:

- a. A mobile food unit shall not be placed within a right-of-way of any public road unless the governmental unit with jurisdiction over that public road right of way consents in writing to such placement.
- b. A zoning permit shall be required for each lot on which a mobile food unit will be open for business to the public unless that location is part of a special event as approved by the local governmental unit. The zoning permit application shall include statements as to the days and hours of operation and shall indicate that all of the applicable regulations and standards of this section are met.
- c. The use of a mobile food unit shall be limited to food sales.
- d. A mobile food unit shall meet applicable requirements of the Health Department.

- e. In addition to signage placed on the mobile food unit, a mobile food unit shall be allowed one (1) temporary accessory sign no greater than 8 square feet in sign surface area and no greater than three (3) feet in height displayed at the location of the mobile food unit. The sign shall be displayed only during times when food is being served from the mobile food unit. The temporary sign shall not be placed in a road right of way without the approval of the governmental unit with jurisdiction.
- f. No more than twelve (12) accessory chairs and no more than three (3) accessory tables may be placed out of doors on the lot.
- g. Each mobile food unit shall have a minimum of two (2) off street parking spaces if no accessory seating is offered or a minimum of three (3) off street parking spaces if accessory seating is offered. Parking spaces as required for the main use or uses of the lot shall be maintained in addition to those required for the mobile food unit. If parking space requirements for the property may be waived as permitted in other parts of this ordinance, then the required parking spaces for the mobile food unit may be waived in the same manner.
- h. A mobile food unit shall have a minimum of one (1) trash receptacle with a minimum capacity of thirty (30) gallons available for use by its customers. Trash shall be removed from the lot daily or more frequently as needed.
- i. A mobile food unit shall meet all setback requirements as would pertain to a structure greater than 150 square feet even if that mobile food unit is of a smaller size.

**Section 4. 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 5. Effective Date.**

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

CHEBOYGAN COUNTY

By:

Its: Chairperson

By:

Its: Clerk



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

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870 S. MAIN ST., RM. 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

**To: Cheboygan County Planning Commission**

**From: Scott McNeil, Planner**

**Subject: Update of sign ordinance relative to content based regulation.**

**Date: November 22, 2016**

Included with this memo please find an updated amendment document dated 11/21/16 with changes typed in bold.

You will find the 45 day provision before a governmental election for temporary signs has been added pursuant to most recent discussion. Also, a substitution clause has been added under section 7 of the amendment document.

The remainder of the proposed amendment remains as presented during the previous public hearing. If no further changes are proposed I recommend we submit the amendment document to legal counsel for review of the changes.

I will look forward to discussing this matter further with the Planning Commission. Please contact me with questions.

**CHEBOYGAN COUNTY**  
**Zoning Ordinance Amendment # \_\_\_\_\_**

AN ORDINANCE TO AMEND THE CHEBOYGAN COUNTY ZONING ORDINANCE No. 200 TO PROVIDE DEFINITIONS, REGULATIONS AND STANDARDS FOR SIGNS.

THE COUNTY OF CHEBOYGAN, STATE OF MICHIGAN ORDAINS

**Section 1. Amendment of Section 17.19.1.**

The following definitions within Section 17.19.1 of the Cheboygan County Zoning Ordinance No. 200 are hereby repealed:

Neighborhood identification sign, Noncommercial sign, Off-premise sign, Political sign, and Real Estate Sign.

**Section 2. Amendment of Section 17.19.2.**

Section 17.19.2. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

**17.19.2. SIGNS NOT REQUIRING A ZONING PERMIT**

The following signs may be placed in any zoning district without a zoning permit, provided such signs are established in a lawful manner and do not create a nuisance or safety hazard:

- A. Incidental signs, not exceeding 3 square feet of sign surface area.
- B. Any temporary sign constructed using a wire, metal, wood or other support structure capable of being placed in the ground and removed from the ground by a single individual with relative ease subject to the following requirements:
  1. There shall be no more than two (2) signs per lot except as otherwise provided by law **and also except if placed within forty five (45) days of a governmental election, then there shall be no more than six (6) signs per lot.**
  2. Shall be removed from the lot within sixty (60) days of it's original placement and no more than two (2) days after the subject matter of the sign has expired, except as otherwise provided by law.
  3. Each sign shall be limited to 8 square feet and no more than 4 feet in height except as otherwise provided by law **and also except if placed within forty five (45) days of a governmental election, then the total sign surface area of all signs shall be no more than 32 square feet and sign shall be no more than four (4) feet in height.**
- C. Governmental signs.
- D. One (1) dwelling owner or occupant name plate per use which is not illuminated and does not exceed an area of two (2) square feet of sign surface area, and may be in addition to any other permitted sign.
- E. Signs that have been approved in conjunction with a valid site plan or PUD.

- F. Any sign authorized pursuant to a written contract between the owner of the lot on which the sign will be located and any third party and placed on the lot for a specified period of time subject to the following requirements:
  - 1. Shall be removed from the lot within thirty (30) days after the subject matter of the sign has expired.
  - 2. Each sign shall be limited to thirty two (32) square feet of sign surface area.
  - 3. There shall be no more than one (1) sign per lot.
- G. Signs on motor vehicles not used primarily for advertising purposes.
  
- H. The use of any balloons, flags, pennants or pinwheels, individually, as a group, or connected to a sign intended to draw attention to a specific event at a specific location subject to the following requirements:
  - 1. Shall not be placed on the lot more than fifteen (15) days before the specific event.
  - 2. Shall be removed from the lot within two (2) days after the specific event is over.

### **Section 3. Amendment of Section 17.19.3.**

Subsection 17.19.3. of the Cheboygan County Zoning Ordinance No 200 is hereby amended to read in its entirety as follows:

#### **17.19.3. PROHIBITED SIGNS**

- A. Signs with moving or revolving parts.
- B. Signs affixed to trees, rocks, shrubs, or other natural features.
- C. Signs affixed to any governmental or public utility structure, except incidental signs.
- D. Signs located in the right-of-way of a public sidewalk or highway, unless the governmental body with jurisdiction over the public sidewalk or highway consents in writing to such sign and such sign otherwise meets the applicable sign regulations of this Ordinance.
- E. Signs utilizing vehicles, trucks, vans, trailers or other similar wheeled devices, including those where the wheels have been removed, excluding signs on vehicles that are used in the day to day operations of the business to which the sign pertains.
- F. Signs that interfere with traffic visibility or public services.
- G. Signs with concrete foundations or other solid anchoring devices that project above the surface of the ground and located as to constitute a safety hazard to vehicular traffic. The Planning Commission may rule on the hazard potential of any proposed sign or sign structure and shall prohibit such sign or require a modification upon finding the presence of a safety hazard.

### **Section 4. Amendment of Section 17.19.5.**

Subsection 17.19.5. of the Cheboygan County Zoning Ordinance No 200 is hereby amended to read in its entirety as follows:

#### **17.19.5. VILLAGE CENTER INDIAN RIVER ZONING DISTRICT SIGN REQUIREMENTS**

- A. All signs in this district shall be constructed of metal, masonry, wood, or a wood simulator such as molded plastic or routed foam.
- B. For lots which face more than one (1) street, sign requirements of Section 17.19.8 shall apply to each street front.
- C. Signs shall not extend or overhang into the public right of way (ROW), unless they are 11 ft. above the ROW (at their lowest point) and unless the governmental body with jurisdiction of the public sidewalk or right-of-way consents in writing to such sign.
- D. In addition to the maximum sign surface area, all lots shall be allowed a bonus of three (3) square feet of sign surface area for each additional use above one (1). This bonus applies to Projecting, Freestanding, and Wall signs only.

**Section 5. Amendment of Section 17.19.5.A.**

Subsection 17.19.5.A. of the Cheboygan County Zoning Ordinance No 200 is hereby amended to read in its entirety as follows

**17.19.5.A VILLAGE CENTER TOPINABEE ZONING DISTRICT SIGN REQUIREMENTS**

- A. All signs in this district shall be constructed of metal, masonry, wood, or a wood simulator such as molded plastic or routed foam.
- B. Lots with more than one (1) lot line abutting a public right-of-way may have one (1) permanent sign located on the lot along each public right-of-way, subject to the total size requirements under Section 17.19.8. Provided, however, this provision shall not apply to canopy signs.
- C. Signs shall not extend or overhang into the public right of way (ROW), unless they are 11 ft. above the ROW (at their lowest point) and approved by the governing authority having jurisdiction over the ROW.

**Section 6. Amendment of Section 17.19.7.D.**

Section 17.19.7.D. of the Cheboygan County Zoning Ordinance No 200 is hereby amended to read in its entirety as follows:

- D. Billboards as defined by the Highway Advertising Act of 1972 (1972 PA 106), that border interstate highways, freeways, or primary highways, as defined in said Act, shall be regulated and controlled by the provisions of such Act, notwithstanding the provisions of this ordinance.

**Section 7. Addition of new Section 17.19.8.3.**

**The Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new section 17.19.8. which shall read in its entirety as follows:**

**Section 17.19.8.3. Message Substitution**

**A message protected by the 1st Amendment of the U.S. Constitution may be substituted, in whole or in part, for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of the message content. This provision applies to all signs. Such substitution of message may be made without any additional approval, permitting, registration or notice.**

**Section 8. 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 9. Effective Date.**

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

CHEBOYGAN COUNTY

By:

Its: Chairperson

By:

Its: Clerk



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

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**Date: November 23, 2016**

**To: Planning Commission**

**From: Scott McNeil, Planner**

**Re: Use terminology review; Assembly halls and Clubs**

Included with this memo please find listed uses from the zoning ordinance which relate to the subject. You will also find the zoning district designation in which each of the listed uses is allowed and if a Site Plan Review (SPR) or Special Use Permit (SUP) is required. Also included is the definition for Club from the zoning ordinance and proposed definition for Assembly Hall. There is no definition for assembly hall in the zoning ordinance.

I will look forward to discussion with the Planning Commission as we evaluate each use listing toward updating, refining and clarifying the use listings in the zoning ordinance.

Please contact me with questions.

## Listed uses relative to Assembly Halls and Clubs

Current Definition:

### **CLUB**

A non-profit organization of persons for special purposes or for the conducting of social, athletic, scientific, artistic, political, or other similar endeavors.

Proposed Definition:

### **ASSEMBLY HALL**

A building or portion thereof in which is used for civic, educational, entertainment, governmental, political, religious or social purposes.

<b>Current Listed use</b>	<b>Zoning districts where allowed</b>
Arcades, bowling alleys, pool or billiard parlors and <i>clubs</i> .	VC-IR, VC-T (SPR) VC-IR-O, VC-T-O (SUP)
Bowling alleys, pool or billiard parlors and <i>clubs</i> .	D-CM, D-VC (SPR)
Churches	D-RS, D-CM, D-LI, D-LI, D-VC, VC-T-RO (SPR)
Churches and parish houses, schools and educational institutions and other municipal buildings, structures and uses.	M-AF (SUP)
<b>Community buildings</b> , public parks and recreational areas, playgrounds and campgrounds.	M-AF, D-RC (SUP)
Educational, municipal, and religious institutions	D-VC, D-RC (SUP)
Educational, municipal, and religious institutions, private clubs	VC-IR, VC-T (SUP)
Private and commercial clubs and lodges with activities in completely enclosed buildings.	D-RC (SUP)
Private clubs and lodges	D-RS, VC-T-O (SUP)

## Listed uses relative to Assembly Halls and Clubs, page 2

Current Listed use	Zoning districts where allowed
Public, parochial and private schools, libraries and municipal structures and uses	D-RS, D-CM, D-LI, D-GI, D-RC, VC-T-RO (SPR)
Schools, libraries, churches and municipal structures	P-LS (SUP)
Theaters, excluding drive in theaters.	D-CM, D-VC, D-LI, D-GI, (SPR)
Golf courses, country clubs and sportsmen's associations or clubs.	M-AF, D-RC (SUP)
Campgrounds, camps and clubs for recreational use.	P-LS (SUP)
Golf courses, driving ranges and country clubs.	P-LS (SUP)



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

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## MEMO

**Date:** November 30, 2016  
**To:** Cheboygan County Commissioners, Planning Commissioners  
**From:** Steve Schnell  
**Re:** Enforcement processes

There has been some discussion lately about zoning ordinance enforcement matters. This is a good opportunity to provide some information about the zoning enforcement process. The Zoning Ordinance #200 is a county law that regulates land use. The County has determined that the zoning ordinance should be enforced through the County's Municipal Civil Infraction Ordinance. Up until 2004, the County had chosen to enforce zoning violations as misdemeanors which means that violators would face criminal prosecution and possible imprisonment. In 2004 the County changed this and amended the zoning ordinance so that violations are less severe. Now, a violation is a civil infraction which is more like a traffic ticket. This is a more common approach to zoning enforcement when the goal is correction of a violation rather than punishment.

Under the law, the ticket can either move forward on the violation before the magistrate without the involvement of attorneys, in which case the magistrate decides whether or not a fine will be assessed if and after determining that a violation has occurred. However, both parties have the option to ask for a formal hearing. A formal hearing occurs in front of the district court judge. Under the law, a district court judge has the authority (if the judge determines that a violation has occurred) to issue a fine as well as enter an order requiring the property owner to correct the violation. If the violation is not corrected per the court's order, the county can file a motion to find the violator in civil contempt with the district court's order in which case more fines, costs and penalties can be invoked. Although rarely done in practice, the violator can be jailed for up to thirty days if the court finds the violator in civil contempt of court. The goal is not to put anyone in jail but to ensure compliance of civil infraction tickets. If communication fails to result in compliance, civil infraction tickets are generally the next best approach. In some cases, a violation needs to be addressed by an injunctive complaint. This is filed in the circuit court. Injunctive complaints allow for further discovery which is not available when enforcing violations through a municipal civil infraction.

When a zoning violation is observed or a complaint is received a site inspection is made. This inspection as well as review of previous zoning records determines whether a violation exists. This inspection is done in a manner that respects private property rights based on case law. The property cannot be entered without owner consent. Without owner consent, the matter must be observed from either a public place or a neighboring property if the neighboring property owner

has given written permission. In some situations, an administrative search warrant is needed to gain access to the property to confirm whether a violation exists. Administrative search warrants are brought only if there is sufficient evidence to convince a judge that a search warrant is necessary to determine the nature of the violation and all other means of access have been denied.

When a zoning violation is determined a letter of warning is sent by first class mail to the property owner. The letter states the section number(s) of the zoning ordinance that are not being complied with and they are given time to comply. At the same time, the building safety department is also informed so that they can determine whether there is a compliance issue with State of Michigan building code. The same process is done for soil erosion to ensure compliance with soil erosion and sedimentation controls.

The tone of this first letter is very important as many people are unaware they have violated zoning and may be surprised by a letter indicating they have a violation of a law. Since the objective is correction and compliance with regulations rather than punishment, it is our goal to ensure that we maintain a constructive relationship with the property owner.

Most violations are unintentional and can be quickly resolved by bringing the matter to the attention of the property owner. For others who do not respond to a notice there is the tool of a citation which is almost always enough to insure a response by the property owner to correct the situation. In all cases, it is important for enforcement staff to be professional and equitable.

In situations where the property owner is making noticeable progress and diligent effort to correct the matter, additional enforcement actions are withheld.

We have found that most people are more likely to not violate a second time if they respect representatives of the zoning department and also believe that our staff will treat them fairly. Our county staff excels in working with all people equally and doing what we can to assist the county resident or business owner through the zoning process. Many times we have seen changes in attitude with people who routinely ignored the zoning permit process in the past and now come in prior to construction and obtain the necessary permits. I attribute this to a fair-minded staff.

Perceptions of zoning enforcement can often seem unfair. For instance, a resident may observe a nonconforming situation at their neighbor's property. A lawful nonconforming use or structure which does not meet current zoning does not necessarily have to abide by current zoning because it was established before zoning was created or prior to a zoning change that made the use nonconforming. Often we are asked, "Why do I have to abide by the rules but my neighbor doesn't?" State law and the county zoning ordinance require that we allow lawful nonconformities to remain.

Another issue with zoning enforcement regards repeat offenders and those who build or begin a new use prior to receiving zoning approval. Beginning a new use without proper zoning approval is a violation of the ordinance. When this is discovered, the business/property owner is notified and required to file a zoning application that will, in most cases, resolve the matter. Since most people don't intend to violate the ordinance, compliance can be obtained with a simple letter of

warning. In some cases it takes more letters and sometimes citations but those cases are very rare. It is also a very small number who are repeat offenders.

Zoning case law, according to legal counsel, require that we treat individuals the same regardless of whether they have violated an ordinance in the past. Also, it is often expressed that we should be able to punish people who are repeat offenders more often than first-time offenders. We have spoken with legal counsel on this matter. Again, based on case law, new offenses, no matter if they were committed by someone who has violated the ordinance before, must be treated the same as any new offense by any property owner. Legal counsel has indicated that there is a method we can initiate if desired that would step up initial citations to those who have committed the same offense repeatedly. But the notification timeline and other procedures must be the same as a first offender would receive.

Some have expressed to us a desire to have the ability to deny any new application from a repeat offender to teach them a lesson. Legal counsel has advised us against this and it would not be consistent with our goal of compliance. Usually the new application is an effort to become compliant with the ordinance in a way they were not before. According to our legal counsel, denying a zoning application because of past enforcement action is a violation of equal protection laws.

In conclusion, it is our goal to treat customers equally, focus on compliance to ordinance requirements, and maintain a positive customer service process.