

# THE CHARTER TOWNSHIP OF GARFIELD

## ORDINANCE NO. 36

### ESTABLISHMENT OF A CONSTRUCTION BOARD OF APPEALS

An Ordinance establishing a Construction Board of Appeals pursuant to Section 14 of the Michigan State Construction Code Act, being Act 230 of the Public Acts of 1972.

### THE CHARTER TOWNSHIP OF GARFIELD GRAND TRAVESE COUNTY, MICHIGAN ORDAINS:

1. **Creation and Composition.** That there be and hereby is established a Construction Board of Appeals for the Charter Township of Garfield which shall consist of three (3) members to be appointed for 2-year terms by the Township Supervisor. Construction Board of Appeals members shall be qualified by experience or training to perform the duties of members of the Board of Appeals.

2. **Appeal Procedure.** If a Township enforcing agency refuses to grant an application for a permit, or if the enforcing agency makes any other decision related to enforcement of construction codes and/or the Construction Code Act (generally, the "Code") adverse to an interested person, that person, or the person's agent, may appeal in writing to the Construction Board of Appeals.

3. **Time for Appeal.** Failure of a Township enforcing agency to grant, in whole or in part, or deny an application for permit within a maximum of 15 days, is deemed a denial of the application for purposes of authorizing the institution of an appeal. Appeals from adverse determinations by a Township enforcing agency, or from the failure or refusal to grant, in whole or in part, an application for permit, may be taken at any time not otherwise prohibited by law.

4. **Procedure.** The Construction Board of Appeals shall conduct all hearings and other business in compliance with Act No. 267 of the Public Acts of 1976. Notice of meetings shall be posted at the Township offices, and shall be posted within 18 hours of any special meeting held for that purpose. Minutes of each meeting shall be kept, indicating the date, time and place of the meeting, as well as a description of all business conducted therein, including all votes taken and the manner in which each member voted.

5. **Notice to Interested Parties.** The Construction Board of Appeals shall hear appeals and requests for variances without undue delay. The Board of Appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the Township enforcing agency from whom the appeal was taken **not more than 30 days after submission of the appeal.** Failure by the Board of Appeals to hear an appeal and file a decision within the time limit provided is a denial for purposes of authorizing an appeal to the State Construction Code Commission.

Interested parties in an appeal or variance proceeding must be properly notified of the hearing and be given reasonable notice of hearing. The notice should include:

- (a) A statement of the date, hour, place, and nature of the hearing.
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
- (c) A reference to the particular sections of the statutes, rules, or code involved.
- (d) A short statement of the matters asserted.

6. **Variances from the Code.** The Construction Board of Appeals may grant a specific variance from substantive requirements of the Code if the literal application of the substantive requirements would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

- (a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the Code of that particular item or part for the health, safety, and general welfare of the people of this state.
- (b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the Code with respect to the condition reasonably practical or desirable.
- (c) The Construction Board of Appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license, and certificate granted on the basis of it.
- (d) In no case shall more than minimum variance from the Code be granted than is necessary to alleviate the exceptional, practical difficulty.

7. **Decisions.** Decisions of the Construction Board of Appeals shall be made in writing with a statement of reasons for the decision. A record of decisions made by the Construction Board of Appeals, properly indexed, shall be maintained at the Township offices.

8. **Appeal to Commission.** An interested person may appeal a decision of the Construction Board of Appeals to the State Construction Code Commission **within ten (10) business days after filing of the decision with the enforcing agency.** In the case of an appeal because of failure of the Construction Board of Appeals to act within the prescribed time, an interested party may appeal to the Commission at any time before filing of the decision.

9. **Interpretation of Ordinance:** In the case of conflict between this ordinance and any resolution or other ordinance, the provisions of this ordinance shall control. The catch line

headings which precede each paragraph of this ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this ordinance.

10. **Effective Date:** This Ordinance shall take effect upon publication.

**LEE F. WILSON**, Supervisor  
**KAY JACOBS**, Clerk  
**GARFIELD TOWNSHIP BOARD**  
Introduced on: July 25, 1996  
Passed by the Town Board on:  
August 8, 1996  
Prepared in the law offices of:  
Running, Wise, Wilson, Ford & Phillips,  
P.L.C.  
By: Kent E. Gerberding  
Township Attorneys  
Business Address:  
326 E. State Street, P.O. Box 686  
Traverse City, MI 49685-0686

IF YOU ARE PLANNING TO ATTEND THE MEETING AND ARE HANDICAPPED REQUIRING ANY SPECIAL ASSISTANCE, PLEASE CALL KAY JACOBS, TOWNSHIP CLERK, (616) 941-1620, OR THE TDD NO., (616) 922-4766

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TO THE RECORD EAGLE:

Please publish on: **August 13, 1996**

Please send affidavit to: Kent E. Gerberding and The Charter Township of Garfield

Please send bill to: Mrs. Kay Jacobs  
Township Clerk  
3848 Veterans Drive  
Traverse City, MI 49684

RECEIVED BY THE RECORD EAGLE VIA FACSIMILE ON \_\_\_\_\_, 1996




# Charter Township of Garfield

## Grand Traverse County

3848 VETERANS DRIVE  
TRAVERSE CITY, MICHIGAN 49684  
PH: (231) 941-1620 • FAX: (231) 941-1588

I hereby certify that the foregoing constitutes a true and complete copy of **Ordinance 36**, Establishment of a Construction Board of Appeals, duly adopted by the Township Board of the Charter Township of Garfield, County of Grand Traverse, Michigan, at a meeting held on August 8, 1996 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

  
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Kay Jacobs, Clerk  
Charter Township of Garfield  
Traverse City, MI