

**KASSON TOWNSHIP PLANNING COMMISSION**  
**September 19, 2016**  
**MINUTES**

**Unapproved Approved [corrected spelling of “Alan Nesbit” name; change “felt” to “suggested” in 9.C paragraph 3]**

A regular meeting of the Kasson Township Planning Commission was held in the Kasson Township Hall on Monday, September 19, 2016, for the purpose of conducting the regular monthly business of the Commission.

**1. Call Meeting to Order/Pledge of Allegiance**

The meeting was called to order at 7:05 P.M. by Chairperson Tad Carter. The Pledge of Allegiance was recited.

**2. Recognition of Visitors and Roll Call of Commissioners**

Visitors Present:

Mike Lanham (Township Zoning Administrator);  
Fred Lanham (Township Supervisor);  
Jane Rolf  
Alan Nesbit  
Deb Nesbit  
Jeff Gagie

Commissioners present (roll call): Jim Anderson, Tad Carter, Dana Boomer, and Gerry Roush.

Absent: Roger Noonan (Excused)

**3. Approval of Minutes – August 15, 2016**

Corrections: None

**Moved by:** Boomer **Seconded by:** Roush to approve the minutes, as submitted.

**Ayes:** All

**Motion carried.**

**4. Consideration of Agenda: Additions or Deletions**

Additions or Deletions: None

**Moved by:** Roush **Seconded by:** Anderson to approve the agenda, as submitted,

**Ayes:** All.

**Motion carried.**

**5. Declaration of Conflicts of Interest**

None.

**6. Correspondence Received**

None.

**7. Reports**

- a) Recording Secretary Report - Chuck Schaeffer. In November, we will have renewal of four SUP's for gravel pits - Leelanau County, Kasson Sand and Gravel, Kasson S&G Redi-Mix, and Reith Riley. Schaeffer has recently been in contact with Todd Colberg of Reith Riley, and he will be handling the Reith Riley and Kasson Sand and Gravel renewals.
- b) Township Board – Commissioner Noonan. Absent.
- c) Zoning Board of Appeals – Commissioner Boomer No report.
- d) Zoning Administrator's Report - Mike Lanham. During August he issued 7 Land Use Permits for a total value of \$933,000. One LU amendment. Lanham further reported that he took approximately 36 phone calls, 6 emails, and approximately 14 texts.

He also spoke with a person who may become the new owner of Maplewood Commons. He is working on a condo agreement, and looking into the possibility of bringing in natural gas. He has pulled six Land Use Permits in the last six months for pre-builts, two of which are now on site.

Commissioner Boomer asked the status of the Cloninger project. Lanham replied that he is waiting approval of planning and development agreement permit by Twp Board. She asked when the clock start ticking on the two years for “meaningful development”? Lanham believes it would start 30 days after SUP issue.

## 8. Comments From the Audience.

**Alan Nesbit.** Looking for progress on their zoning concerns. He commented on the Suttons Bay document that it puts burden on the homeowners for reporting infractions. He is against that concept that homeowners to have to call the rental agent, or a government official. He suggested that any ordinance should focus on limiting the numbers (people). Chairman Carter asked for a clarification. Was he (**Nesbit**) asking for enforcement by the Zoning Administrator? **Nesbit** replied that he would prefer no short term rentals at all, but lacking that, yes, the Zoning Administrator, not the residents. He thought it would be a burden on him to have to call the rental agent to lodge a complaint.

**Debbie Nesbit** The Suttons Bay regulations are 6 pages long. One of the homes is advertised as accommodating 10-12 people, but the last renter brought in 3 inflatable beds in addition to the 4-5 bedrooms. The other house, down the way, sleeps 10, but there were 15 people there.

## 9. Old Business

### A. Minimum Building Size - Commissioner Anderson

Chairman Carter presented the Commission with a letter from the Township Attorney, Tom Grier, [Attachment A] regarding definition of Single Family Residence in the Zoning Ordinance [Attachment B].

Carter: wondered if should we reference state construction code rather than our own for the definition?

Grier's letter referenced a new proposed definition of Single Family Residence but it was not included [It was subsequently located and is now included with these minutes as Attachment B]. Anderson noted that Leelanau Construction Code chief, Steve Haugen worked with Grier in developing this language.

Commissioner Anderson noted that we earlier had a consensus of 480 square foot minimum.. Anderson suggested that Grier's draft include the square footage. Without objection, Carter suggested that the issue be tabled until next meeting when everyone will have had a chance to review Grier's suggested language.

B. House Rentals in Non-Commercial Districts (Continuation of Discussion)

Attorney\_Grier supplied suggested language [Attachment C] of a new ordinance to regulate short term rentals in a non-commercial district. This would be a police-power ordinance, not an amendment to the Zoning Ordinance.

Commissioner Boomer: noted that Grier's language allows more people, shorter quiet hours, more lenient trash regulations, and so forth as compared to the Suttons Bay language language that the Commission previously reviewed.

Commissioner Roush questioned if the Sheriff was the one to issue a civil violation (Violation Section). If so, he suggested that this should be discussed with the Prosecutor and Sheriff to see if they would exercise this power. Who is going to report it and who is going to enforce it? Zoning Administrator Lanham has talked to the County Prosecutor regarding civil infractions. The Prosecutor indicated that he will take each one on an individual basis.

The Suttons Bay language calls for a 1 year permit, while Kasson Township's language specifies 3 years.

Carter: If adding a junk ordinance and a short term rental ordinance, what will this do to the workload of the ZA. Carter suggested that with the adoption of this ordinance, plus the other civil infraction ordinances the Township already has, this seems to grow the Zoning Administrator's position to full time.

Commissioner Anderson noted that this solution is a major undertaking when we have only received this kind of complaint from the Davis Lake area. He wondered if there was a simpler solution. Roush and Boomer agreed with the simpler solution approach. Boomer further listed a number provisions of the Ordinance and wondered how each one would be practically enforced. Roush cautioned that if this were being enforced by a civilian, such as our ZA, he may meet a situation that it is not appropriate for him to deal with.

Recording Secretary Schaeffer received permission to relate a conversation that he had with a Traverse City resident who wanted to do short term rentals. She found in her particular situation/ zoning district it was required that the owner live on premise while rentals were taking place. Perhaps this kind of requirement might be a direction for us to pursue.

ZA Lanham added that this is not just a local issue, but is going on all across the country. Carter suggested that we table discussion to allow the Commission to reflect on the issue and the suggested ordinance language. At the next meeting we should decide whether to advance ordinance language to the Township Board or drop the issue.

Carter asked Supervisor Lanham if there had been discussions about shooting in the Township. Lanham replied that some on the Township Board are investigating limiting shooting through a noise ordinance. State Law prohibits governments from enacting legislation to keep people from shooting on their own land.

Back to the short term rental issue, Roush asked how long the Suttons Bay Township's ordinance been around? (2006) Roush: suggested tabling for more thought and discussion. Carter

suggested talking with Sheriff. Borkovich for input. Also Carter will invite Steve Patmore (SBT ZA) to the next meeting to counsel us.

Carter: indicated the issue will tabled till October (without objection).

**C. Review of old SUPs**

This issue concerns the Gilmer property at M-72 and CR669 (Pollack's Corners). In January 2003 Ted Gilmer asked for a variance to construct a commercial building to replace the current store. In July, 2003, he was given a variance by the KTZBA with the condition that he was to remove the existing store and white house on the parcel by July 10, 2005.

At a meeting of the KTPC in December, 2004 a commissioner asked about the progress on the variance, and if the buildings were not removed, would the variance be revoked. It was agreed then that the issue would be looked into further. However, Commissioner Boomer looked forward in the KTPC minutes through 2006 and found no further reference to the issue. Chairperson Carter clarified that Jim Frey was the ZA at the time. Boomer asked if he still has to remove the two old buildings even though he did not build the new store.

ZA Lanham indicated that removal of the building would fall under the Nuisance Ordinance, not under the Special Use, should the Township Board choose to do so.

Commissioner Boomer feels **suggested** that we should not enforce the tear-down condition unless he asks for a LUP for a new building. Carter directed the Zoning Administrator to prepare a list of those building that might be subject to the Nuisance Ordinance.

Boomer thought that at a prior meeting, there was discussion about revoking SUP's that are not in use for some period of time. She suggested that we should have a formal process to investigate these SUP's and perhaps revoke them if unused. Anderson agreed that there should be a formal process.

There was no further discussion or action proposed.

**D. County Planning Commission - Suggestion to change wording paragraph to Chapter 4, Section 11.8G (Amendment **PCZO 2016-02**)**

Chairperson Carter summarized the County Planning Commission's discussion of our proposed amendment. Primarily their concerns revolved around the use of the word "discretion" [See Attachments E and F] .

Consensus of the Commission was to adopt the staff recommendation language [See end of Attachment E], and to call the Township Attorney to see if we need to re-do the public hearing.

If another public hearing is required, we could combine it with the Gravel SUP renewal public hearing in November. If necessary, RS Schaeffer will include it in the newspaper notice..This item was deferred to the November meeting, without objection.

**10. New Business**

**A. Proposed SUP for Kayak Rental Business at CR-616 and CR 669 - Jeff Gagie**

[Note, specifically, this property is at the Northeast corner of Burdickville Rd. and Bohemian Rd.]

Prior to Commission discussion, ZA Lanham advised Commissioners that even though the proposed use is not permitted in the zoning district, to keep in mind the provisions in Section 7,1,5 of the Zoning Ordinance.

Mr. Gagie addressed the Commission. He wants to move his business to a permanent location at this property. He runs a kayak rental business, serving Leelanau County. He also conducts guided tours by kayak along the shores of the National Park. The National Park Service will not allow his rental customers to park in parking areas on Park land. Therefore, he needs to provide other means.

Presently his business uses two truck/trailer combos, two vehicles for shuttling customers, and owns under 50 kayaks most of which can be stored inside. He said he wouldn't necessarily be able to store all the kayaks inside.

He said his purpose for attending this meeting to hold a pre-application discussion to gauge the responsiveness of the Commission. The business will operate basically on daytime hours. The business is web based, so people do not have to come to his physical location to place reservations for a kayak or a guided tour. Presently his business is a warehouse located across from Sugarfoot Saloon and very few of his customers have ever come there. Some of the subject parcel is screened by a berm. The real estate listing says it's 2.4 acres, with a barn, and foundation for a building that was never constructed. He has no plans at present for the foundation, but may consider a home in the future.

Commissioner Roush asked about the parking potential and storage of his kayaks. Gagie said has 46 kayaks now, and can stack them either 4 or 6 high. Roush asked about worst case scenario - 46 individuals wanted 46 kayaks, where would you put 46 vehicles on 2 acres? Gagie's research says a space should be 10x18 feet, and 1 space for every 3 people. With that assumption he thinks he could get 75 parking spaces on the property, but thinks that the Commission would prefer not to see that number. Concerning his vehicles, he has need for 6 spaces, and 7 additional spaces for employees.

Concerning the kayaks, he would like to be able to store them outside and not be required to store them all inside.

Typically he begins business around 7 AM with kayaks being delivered by approximately 9 AM, with operations ceasing aboard 9 PM. This time varies according to the daylight. He would look forward to having to park 45-50 cars as that would indicate the business was doing very well. ZA Lanham asked about tour sizes. Gagie said this past season his largest tour was 24, but typically the size is around 18-20 people. Typically he has morning tours that run 9 AM to Noon. He also has started evening tours, with only a few being conducted this season. Typically they ran 5 PM - 8:30 PM. He has never had all 46 kayaks out at one time. This past year, the maximum out at one time was approximately 35. This past season when he had customers staying at the Homestead, he would often pick them up there. In other instances, he had customers park at the Empire public parking lot and would be shuttled to North Bar Lake.

Commissioner Boomer stated that this parcel is in the Forested District, and is 2.4 acres. ZA Lanham presumed that it was not a 10 acre parcel because it was platted before 1997 [effective date of zoning in the Township]. She asked Lanham how a non-conforming lot works with Special Use Permits. ZA Lanham felt that as long as setbacks were met there would be no problem regarding the non-conforming status. She went on to recall a prior decision of the Commission where we did not allow a SUP on a non-conforming lot. Therefore should the Commission not be consistent? She likes the idea of this project but more importantly we should be consistent in our

decisions. Lanham directed the Commissioners to Zoning Ordinance Section 5.4 - Sub-Standard Lots [See Attachment D]. This section says that sub-standard lots can be used for residential purposes.

Gage asked if this was a deal breaker. Boomer thinks there needs to be more investigation. Chairperson Carter says his issue is the operation of a business in a residential district, where we have provision for those in the Commercial District zoning. Not speaking for the entire Commission, he feels that issuing a SUP for a non-permitted use is equivalent of spot zoning. Boomer asked if this was an Outdoor Recreational Facility [which is a permitted special land use in Forested with a SUP]. Carter reminded Commissioners that the Township Attorney has recommended that an SUP for commercial, money-making operation in the Forested District amounts to spot zoning.

Gagie asked if this was the only guidance he could get from the Commission. Boomer feels we should give him guidance on whether a SUP is allowed on a non-conforming lot. Commissioner Anderson said he assumed that an offer to purchase the property would be contingent on gaining zoning approval. Gage: "Yes". But even then he would still need to incur costs in the preparation of the SUP application. Commissioner Roush pointed out that without all of the data required by Section 7.5 (a) we would not be able to give an opinion. He continued by saying he could not in good conscience give him an opinion without more information. Boomer proposed that we investigate further, and give that information to ZA Lanham to forward on to Gagie.

That was acceptable to Mr. Gagie and the Commissioners.

## 11. Comments from the Public.

**Alan Nesbit** - suggests that these party houses are on non-conforming lots, so you may not want to consider granting a SUP to them, either. Concerning noise, we [neighbors] do not want to call the police because we do not want to cry wolf. If we called every time there was noise, they would be there four or five times a week. If the police do not respond promptly, the noise may be over, thus leading them to believe we are not sincere.

**Debbie Nesbit** - Asked if the Commission knows how many of this type exist in the Township. Carter: "No idea". They looked at all of our definitions. And brought the applicable parts to the Commission's attention. Her opinion is that these short term rentals are most like the definition of a Boarding House, and asserted that Boarding Houses are not allowed in the Forested District. She now sees us considering nine more pages of rules, when this could be solved by the existing language. She also feels that the Commission cares more about catering to businesses than worrying about the concerns of homeowners. Commissioner Roush asked to reply. He pointed out that the Commission has absolutely no enforcement powers. When you feel that ordinances or regulations are being violated, you should go to the enforcement authority of the Township. **Alan Nesbit** said they had filed a complaint with the Zoning Administrator, what, two months ago? As if now they have received no written response.

**Chuck Schaeffer** - he has owned his property [near the 616/669 parcel] since before the 1997 Zoning Ordinance. Since the ordinance enactment there has been one new business established at that intersection — the pet crematory. The nature of that business is there is virtually no traffic in/out, and rarely has more than one car there when there are any cars there. It is far removed from the road, tucked back into the woods. It does not detract in any way to the neighborhood. The riding academy, although technically commercial, has more

characteristics of an agricultural use, and that use fits the character of the neighborhood. The property in question was used by a builder, as he recalled. Equipment was stored inside and there was no business sign present. Besides a few cars, there was not a substantial indication that there was a business there. Again, its use was not detracting to the existing nature of the neighborhood. I believe that with the certainty of outside storage and the probability of 20-30 cars parked there, this business does detract from the existing neighborhood and is not consistent with zoning and the Master Plan.

**12. Next Meeting:**

October 17, 2016,, 7:00 PM, Township Hall.

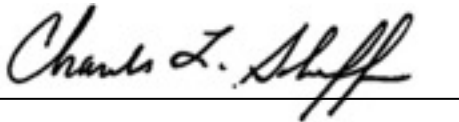
**13. Adjournment**

**Moved by:** Roush **Seconded by:** Boomer to adjourn the meeting.

**Ayes:** All.

**Motion carried.**

The meeting was adjourned at 8:45.



Chuck Schaeffer  
Recording Secretary  
Kasson Township Planning Commission

# Attachment A



September 16, 2016

Kasson Township Planning Commission  
P.O. Box 62  
Maple City, MI 49664

Re: Amended definition of "Dwelling Single Family" for the Zoning Ordinance

Dear Planning Commission Members,

Attached is a revised draft of the definition of the term "Dwelling Single Family" in the Zoning Ordinance. This revision reflects my review of the definition in the context of applicable Michigan statutes as well as extensive discussion with Leelanau County Building Inspector Steve Huegen. I asked Mr. Huegen to review the proposed definition as well.

Based upon my review of pertinent Michigan statutes and discussion with Mr. Huegen, there are essentially *three* types of single family dwellings in Michigan. These are "*stick built*" homes ("*SBH*"), *pre-manufactured homes*, and *mobile homes*.

SBH and pre-manufactured homes are regulated under the State Construction Code Act of 1972, MCL 125.1501 et. seq. ("PA 230"). PA 230 was amended in 1999 to provide for uniform adoption of the international electrical, construction, mechanical and plumbing codes statewide and provided for adoption of those codes by local government, including Leelanau County.

For that reason, paragraph 2 of the revised definition makes reference to PA 230. PA 230 also defines "mobile homes", but then makes reference to a federal construction standard. That is the basis for paragraph 3 of the revised definition.

Mobile homes in mobile home parks, and under other circumstances are also regulated by the Mobile Home Commission Act 96 of 1987 ("PA 96") and that is why there is a further reference to PA 96.

Other regulations are also included.

Sincerely,  
  
Thomas A. Grier

TAG/cgf  
Encl.

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Kurt E. Gerberding  
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ATTORNEYS AT LAW  
A PROFESSIONAL LIMITED LIABILITY COMPANY

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# Attachment B

Dwelling Single Family is a building designed for the exclusive use and occupancy as a dwelling unit by one (1) family, complying with the following standards:

1. A single family dwelling shall have a minimum of 480 square feet of living space.
2. Dwellings constructed on site with building materials brought to the site, and pre-manufactured units as defined under the Michigan State Construction Code, 1972 P.A. 230 (“PA 230”), as amended, shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provisions of PA 230, as amended. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards and regulations for construction are different from those imposed by PA 230, then, and in that event, such federal or state standard or regulation shall apply, in addition to those in PA 230.
3. A Mobile Home, as defined in PA 230 shall mean a vehicular, portable structure and shall meet all of the following requirements:
  - (i) Is built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426.
  - (ii) Is designed to be used without a permanent foundation as a dwelling when connected to required utilities.
  - (iii) Is or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.
4. A Mobile Home shall otherwise comply with all of the requirements of the Mobile Home Commission Act, Act 96 of 1987 (“PA 96”), as applicable, shall be installed pursuant to the manufacturer's set -up instructions, and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall.
5. Each Mobile Home shall be installed with the wheels removed. Additionally, no Mobile Home shall have any exposed towing mechanism, undercarriage or chassis.
6. All dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the local Health Department.
7. The foregoing standards shall apply to a Mobile Home located in a licensed mobile home park except to the extent otherwise required by state or federal law or as specifically required in this Ordinance.

# Attachment C

## **SHORT-TERM RENTAL ORDINANCE** **Ordinance No. \_\_\_ of 2016**

AN ORDINANCE PURSUANT TO PUBLIC ACT 246 OF 1945, MCL 41.181 AS AMENDED, TO PERMIT AND REGULATE SHORT-TERM RESIDENTIAL RENTALS WITHIN THE TOWNSHIP, TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF, THE ORDAINS:

Kasson Township Ordains:

### **Section 1. Definitions.**

As used in this Ordinance,

"Bedroom" means a separate room or space used or intended to be used for sleeping purposes.

"Dwelling unit" means a single family residence, residential condominium unit, duplex, or single apartment in a commercial building, providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation, and a separate bedroom(s) for sleeping.

"Occupancy" means the purpose for which a dwelling unit or portion thereof is utilized or occupied.

"Occupant" means any individual living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

"Operator" means any person who owns or has charge, care or control of a dwelling unit which is offered for rent on a short term basis.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Short-Term Rental" means to permit, provide for, or offer possession or occupancy of a dwelling unit - in which the owner does not then reside for a period of less than thirty (30) days to a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license.

"Sleeping Room" means space, other than a bedroom, used for overnight sleeping purposes.

"Township" means the Kasson Township.

### **Section 2. Short-Term Rental Permit Required.**

No person shall rent or cause to be rented a dwelling unit within the Township for a period less than

thirty (30) days without first obtaining a Permit from the Township pursuant to the requirements of this Ordinance. This requirement applies to all short-term rental properties in the Township including those properties granted zoning permits prior to the adoption of this ordinance.

### **Section 3. Application and Fee Requirements.**

An operator seeking a license under this Ordinance shall submit a complete application to the Administrative Coordinator, or its designee and pay the required fee, not less than \$50 annually, which shall be determined from time to time by resolution of the Township Board. The application shall include proof of ownership of, or the legal right to rent, a dwelling unit, and all information reasonably necessary for the Administrative Coordinator, or its designee, to determine whether the applicable standards for approval have been met. The Administrative Coordinator or its designee may approve the form of, and content of, the application.

### **Section 4. Standards for Approval.**

The Administrative Coordinator or its designee shall approve, or approve with conditions, an application for a short-term rental Permit only upon a finding that the application complies with all of the following applicable standards:

1. **Bedrooms and Sleeping Rooms. Maximum Overnight Occupancy.** Maximum overnight occupancy for short-term rentals shall be up to a maximum of two (2) persons per sleeping room or bedroom, plus two (2) additional persons per property, up to a maximum of twelve (12) persons, excluding children under three (3) years of age.
2. **Maximum Bedrooms or Sleeping Rooms.** There shall be a maximum of five (5) bedrooms or sleeping rooms.
3. **Per Parcel Limit on Number of Residences or Structures.** Only one short-term rental is allowed for one single family residence, one residential condominium, one duplex, or one apartment per tax parcel. Accessory structures on the same parcel shall not be leased, subleased, rented or sub-rented separately from the main dwelling.
4. **Parking.** There shall be at least one (1) off-street parking space for a rental with up to two (2) bedrooms or sleeping rooms; at least two (2) off-street parking spaces for a three (3) or four (4) bedroom short-term rental property. Larger short-term rental properties must demonstrate adequate parking with a minimum of three (3) spaces.
5. **No Room Rentals.** In no event shall an individual room in a short-term rental unit be rented to a person, family or other group of persons. Nor shall a short-term renter sublet a unit.
6. **Boat Storage and recreational storage.** There shall be designated locations for boats, trailers, bikes and personal watercraft.
7. **Fire Safety and Emergency Access.**
  - A. **Smoke Alarms.** Smoke detectors/alarms shall be installed in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) standards Section

72.A. Smoke detectors/alarms shall be installed in the following locations:

- (1) In each bedroom or sleeping room.
- (2) Outside of each separate sleeping area in the immediate vicinity of the bedrooms.
- (3) On each additional story of the rental unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent level provided that the lower level is less than one full story below the upper level.

**B. Bedroom and Sleeping Room Emergency Window Access**

- (1) Every bedroom and sleeping room shall contain a window meeting current fire code and/or building code standards for ingress and egress in an emergency. Alternatively, this requirement can be met by a door in the bedroom or sleeping room that leads directly outside.
- (2) No bedroom or sleeping room shall be located in a basement unless the room contains a window meeting ingress and egress emergency standards, or by a door in the room that leads directly outside.

**C. Fire Extinguishers.** A fire extinguisher (minimum size @A10BC) shall be mounted at an exit door located on every floor level including the basement.

8. **Designated Representative.** The operator shall identify a designated representative as a contact person. The operator shall provide an address and a current 24-hour working phone number of the designated representative, who shall be located within 25 miles of the short-term rental property. The designated representative shall be reachable within one hour of the time that a telephone call is made. The operator shall further update the Township whenever there has been a change in the designated representative.
9. **Rental Agreement and Insurance.** As part of the application, at minimum, along with other information, the following shall be provided:
  - A. Copy of Liability Insurance including coverage for short-term rentals.
  - B. Copy of proposed Rental Agreement.
  - C. Copy of proposed Rules for renters reflective of the requirements of this Ordinance.
  - D. Copy of other documents the Administrative Coordinator may determine are necessary from time to time as part of the application.
10. **Certification by Applicant.** As part of the application, the applicant operator shall certify that the foregoing standards have been met, and include a photograph and site plan of the dwelling unit where the short-term rental shall occur.

**Section 5. Operational Standards.**

1. **Maximum Number of Guests and Visitors.** The maximum number of total guests and visitors allowed at any one time in a single short-term rental shall not exceed the maximum overnight occupancy plus six (6) additional persons per property, or eighteen (18) persons, whichever is less, excluding children under three (3) years of age.
2. **Quiet Hours and Noise.**
  - A. Quiet hours are imposed between 11 p.m. and 8 a.m. There shall be no noise levels from loud conversation or other outdoor activity disruptive to neighbors between the hours of 11 p.m. and 8 a.m.
  - B. Music played outdoors or indoors between 8 a.m. and 11 p.m. must not disrupt the essential residential character of the general vicinity. Any music or other sounds from electronic devices, yard machinery, other mechanical devices and vehicles and shall be harmonious with the normal activities of the neighborhood.
  - C. No person shall unreasonably make or cause to be made any noise disturbance, or otherwise cause noise contrary to a Township noise or nuisance ordinance.
3. **Fireworks.** Fireworks are prohibited at all times.\
4. **Outdoor burning.** Outdoor burning is prohibited at all times, except for grilling and contained fire pits. However, fires in fire pits must be terminated by 10 p.m.
5. **Tents, Yurts and RVs Prohibited.** Tents, Yurts and RVs are prohibited as part of a short-term rental.
6. **Boat, Bike Storage.** Boats, trailers, bikes and other recreational devices must be stored in designated locations on the property.
7. **Posting Restrictions.** All Restrictions shall be posted in a prominent place within the interior of the dwelling boldly. All advertising handouts, flyers, other information and the short –term rental agreement must contain the foregoing standards and rules and include a signed acknowledgment by the renter to abide by the rules.
8. **Trash Pick-Up.** The operator must provide for trash pick-up at the property consistent with the neighborhood practice.

## **Section 6. Duration of Permit; Re-application.**

A Permit issued under this Ordinance shall remain in effect for three years until the happening of one or more of the following events:

1. The dwelling unit is physically altered in such a way that the occupancy potential is increased or decreased.
2. There is a change in the operator.
3. This Ordinance is amended to alter the standards for approval contained in Section 4.
4. If a Permit is no longer valid, because of any of the foregoing conditions, the operator applicant shall re-apply based upon the application standards in this Ordinance.

## **Section 7. Additional Conditions.**

The Administrative Coordinator or its designee may impose additional reasonable conditions on a Permit issued under this Ordinance which are reasonably necessary to ensure compliance with the standards for approval and operational standards. Any applicant dissatisfied with any additional standards may appeal to the Township Board within 10 days of the Administrative Coordinator's decision.

## **Section 8. Appeal of Denial**

In the event an application is denied in whole or in part, the applicant operator may appeal the Administrative Coordinator or its designee's decision to the Township Board within 10 days of the decision.

## **Section 8. Nuisance**

A violation of this Ordinance is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

## **Section 9. Violations.**

Any person who violates any provision of 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 Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered a separate violation. In addition, a person in violation of this ordinance may be subject to appropriate injunctive orders issued by District Court Judges and Magistrates under the foregoing authority.

## **Section 10. Enforcement Officials.**

The \_\_\_\_\_, and the Leelanau County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

## **Section 11. Civil Action**

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.

## **Section 12. Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

## **Section 13. Revocation**

In the event the operator has been shown to be responsible for two or more municipal civil infraction violations, the Permit shall be revoked for one year and re-application cannot occur until after the one year

revocation period has expired.

**Section 14. Effective Date.**

This Ordinance shall become effective twenty (20) days after being published in a newspaper of general circulation within the Township.

Date of Board Approval: \_\_\_\_\_

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_

# Attachment D

## **SECTION 5.4 SUBSTANDARD LOTS**

Any residential lot or parcel created and recorded prior to the effective date of this Ordinance may be used for residential purposes even though the lot does not comply with the dimensional requirements of this Ordinance, provided:

- A. That the lot or parcel complies with Section 5.12 of this Chapter.
  
- B. That a proposed building, structure, or use for the lot satisfies the yard requirements set forth in Chapter 4 district regulation in the appropriate district.
  
- C. That the approvals set forth in Section 5.15 of this Chapter are delivered to the Zoning Administrator.



# Attachment E Leelanau County PC Staff Report

## NEW BUSINESS Item A

### TEXT AMENDMENT REVIEW

#### PC11-16-07 Kasson Township

##### *Text Amendments:*

*Chapter 7 Special Land Uses and Special Use Permit Requirements*

*Sections 7.5 Data Required*

*Section 7.7 Basis for Determination*

*Chapter 4 District Regulations*

*Section 11.6 Conceptual Development Plan: Application Requirements*

**Reviewing Entity:** Leelanau County Planning Commission

**Date of Review:** August 23, 2016

Section 1: General Information	
<b><i>Date Request Received:</i></b>	July 30, 2016
<b><i>Last Day of Review Period:</i></b>	August 29, 2016
<b><i>Requested Action:</i></b>	Review and comment on proposed amendments to the Kasson Township Zoning Ordinance.
<b><i>Applicant:</i></b>	Kasson Township Planning Commission Tad Carter, Chairman

### Section 2: Proposed Text

The proposed Zoning Ordinance Amendments were submitted by email on July 30, 2016 and will modify the following:

Chapter 7, Special Land Use and Special Use Permit Requirements, Section 7.5 Data Required

Chapter 7, Special Land Use and Special Use Permit Requirements, Section 7.7 Basis for Determination

Chapter 4, District Regulations, Section 11.6 Conceptual Development Plan

***Link to the Kasson Township Zoning Ordinance – for ‘current text’:***

<http://www.leelanau.cc/kassontwpord.asp>

### Section 3: Other Planning Input

<b>Township Plan:</b> The Kasson Township Master Plan (2014) does not specifically address the proposed amendments.
<b>Leelanau General Plan:</b> The Leelanau General Plan (2012) does not specifically address the proposed amendments.
<b>Township Planning Commission:</b> A public hearing was held on July 18, 2016 and the Kasson Township Planning Commission passed unanimous motions on the three proposed modifications to send the amendments to the County Planning Commission. <i>(See Appendix for copy of the Minutes).</i>

Section 4: Analysis			
	Yes	No	NA
<b>1. Compatibility</b>			
A. Is the proposed text <b>compatible</b> with other language in the zoning ordinance?	See Staff Comments		
B. Are there any <b>issues</b> with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?	See Staff Comments		
C. Do the land uses or other related dimensional standards (height, bulk, area, setback, etc.) in the proposed text amendment(s) <b>conflict</b> with the existing zoning ordinance?	See Staff Comments		
<b>2. Issues of Greater Than Local Concern</b>			
A. Does the proposed text amendment(s) include any issues of greater than local concern? Please list.		X	
<b>3. Comparison with Local Plans or Ordinances</b>			
A. Do the contents in the proposed text amendment(s) conflict with the community’s plan? Please list.		X	
<b>4. Comparison with County Plans or Ordinances</b>			
A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.		X	

**Section 5: Staff Comments**

Township Attorney Tom Grier recommended several changes to the Kasson Township Zoning Ordinance to clean up some language. The recommendations pertaining to 7.5 and 7.7 clarify that it is the responsibility of the applicant to provide sufficient documentation that certain standards will be met. The recommendation pertaining to 4.11.6 was to include the word “dust” to an existing list of noxious conditions.

In the Excerpt from the Minutes of the Kasson Township Planning Commission Meeting of April 18<sup>th</sup> there is a small error under: 2. Chapter 4, Section 11, Section 4.11.6 Conceptual Development Plan.

The minutes state: ***Add new paragraph 4.11.8.G:***  
Reference should be made to paragraph 4.11.6.G instead of 4.11.8.G.

In the suggested language for Chapter 4, District Regulations, Section 11.6G Conceptual Development Plan as well as Chapter 7, Special Land Use and Special Use Permit Requirements, Section 7.5.A.8 Data Required, the township proposes the wording:

*It is solely the responsibility of the applicant to procure and present adequate professional expert testimony and/or other information, as may be required by the Planning Commission **at their discretion** describing the methods, proposed conditions, and safeguards that are to be put into place to satisfy all applicable standards.*

Staff questions whether the Planning Commission may include additional ***discretionary*** requirements, if the applicant has met the requirements outlined for a Special Land Use Permit in the Zoning Ordinance. It may be more appropriate to state that during the review period of their application the township may impose additional requirements for clarification purposes, such as a traffic study to determine the additional impact of a development on the road system. Suggested wording may be as follows:

*It is solely the responsibility of the applicant to procure and present adequate professional expert testimony and/or other information, as may be required by the Planning Commission **during review of the application** describing the methods, proposed conditions, and safeguards that are to be put into place to satisfy all applicable standards.*

# Appendix “F” Leelanau County PC Minutes Excerpt

*August 23, 2016 Draft LCPC Minutes*

**A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION (LCPC) WAS HELD ON TUESDAY, AUGUST 23, 2016, AT THE LEELANAU COUNTY GOVERNMENT CENTER IN SUTTONS BAY, MICHIGAN.**

## **CALL TO ORDER**

Chairman Greg Julian, called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.

## **ROLL CALL Members Present:**

### **Members Excused:**

### **Staff Present:**

### **Public Present:**

Greg Julian, Victor Goldschmidt, Will Bunek, Fred Cepela, Richard Kobetz, Jessica Lukomski, David McCulloch, Eric Winkelman, Steve Yoder

Dan Hubbell, Jerry Raymor Trudy Galla, Kristin Holappa None

## **CONSIDERATION OF AGENDA**

*It was moved by Goldschmidt, seconded by Lukomski, to approve the agenda as presented. On a voice vote, the motion carried, 9 – 0.*

## **CONFLICT OF INTEREST**

Julian noted he believes, per our bylaws, he has a conflict of interest regarding the Kasson Township issue under consideration as a Trustee on the Kasson Township Board. Planning Commissioners agreed by consensus. Goldschmidt will chair the meeting during New Business item A.

## **PUBLIC COMMENT**

None

***Excerpt from the Draft Leelanau County Planning Commission Minutes:***

**NEW BUSINESS**

**A. PC11-16-07 Kasson Township – Various Text Amendments**

**Goldschmidt chaired the meeting**

Galla provided a review of the Staff Report. She noted the changes are fairly minor. Galla referenced an error in the way a change was referenced in the township minutes to ***Add new paragraph 4.11.8.G***. Reference should be made to paragraph 4.11.6.G instead of 4.11.8.G.

Galla discussed new language being considered. The Township Planning Commission has the right to require additional studies or documentation at the time of the review and it will be at the applicants cost. The language included says it may be required by the Planning Commission at their ***discretion***. Staff suggest the following wording instead:

*It is solely the responsibility of the applicant to procure and present adequate professional expert testimony and/or other information, as may be required by the Planning Commission **during review of the application** describing the methods, proposed conditions, and safeguards that are to be put into place to satisfy all applicable standards.*

Galla noted this is so everyone will know that is the time they can ask for additional information and there may be a cost to the applicant.

Galla noted Kasson Township has proposed the amendments on the advice of their attorney.

Kobetz thought it might be explicitly noted any additional requirements will be at the applicant's expense not that of the township. The purpose is to take more burden off of the official and put it on the actual applicant/contractor.

Bunek referenced the statement the applicant must clearly demonstrate that all standards of the ordinance have been met. Isn't it the job of the Planning Commission to determine if all of the requirements have been met?

Goldschmidt commented that the Zoning Administrator, in conference with the applicant, should review the application and make recommendations at that time. The Zoning Administrator should be a champion of the applicant to make sure all of the information that would make their case acceptable is there.

***It was moved by Winkelman, seconded by Bunek, to transfer this review to Kasson Township along with the Staff Report and Commissioners' Comments.  
On a voice vote, the motion carried, 8- 0.***

Written Commissioner Comments:

Victor Goldschmidt

PC11-16-07 Kasson Township – Various Text Amendments

1) Minutes - page 8 of 19, second paragraph "of if"

2) As far as the amendments re: "dust" no concern with that, but in relationship of burdens on applicant if the planning commission decides to request for more data, I have a major concern on the proposed two amendments' current wording, and fully support staff's rewording.

There is no doubt that discretionary authority rests above all on the elected Boards/ Councils; and within its realm of authority on the Zoning Board of Appeals. On the other extreme there is no doubt that Planning Commissions have the least of all authority for discretionary decisions. As a matter of fact they are NOT empowered to make discretionary decisions. They can't ignore or re-interpret the standards on their ordinance, and what is more they do NOT have discretionary authority to impose requirements not clearly stated in the zoning ordinance. Words like capricious and arbitrary should remind them of such restrictions. This fact, of their having no discretionary authority, is what justifies the existence of a Zoning Board of Appeals.