

# City of Tawas City



550 West Lake Street, PO Box 568 ■ Tawas City, Michigan 48764-0568  
(989) 362-8688 ■ www.tawascity.org

## ZONING BOARD OF APPEALS APPLICATION

### CONTACT INFORMATION

Owner:	Contractor/Applicant:		
Mailing Address:	Mailing Address:		
Phone:	Phone:		
Improvement Address:	Property Code:		
Subdivision:	Block:	Lot(s):	Zoning District:

### TYPE OF REQUEST

- non-use variance     appeal of administrative decision     other \_\_\_\_\_

### REQUIREMENTS FOR APPLICATION

Please attach a separate sheet describing your request in complete detail. Include any drawings, maps, photographs of the site and/or any other documentation that might be helpful to the Zoning Board of Appeals.

When requesting a dimensional variance, include a basic site plan drawing. Show the location of your property lines, existing and proposed buildings, existing and proposed easements, building setbacks, and other items necessary to adequately and accurately show the nature of your request.

In order to receive a variance, you must meet the standards of Article 8 of the Zoning Ordinance. A copy of Article 8 is attached to this application. Your written response must address these standards and show practical difficulty by demonstrating each of the following:

- The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography, and is not due to the applicant's personal or economic hardship;
- Strict compliance with the regulations governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
- Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.
- The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district, and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of Tawas City.

(Authority - Michigan PA 110 of 2006, as amended) Please attach a description of the request and/or sketch of the improvement, along with any additional documentation required in accordance with Article 5 of the Zoning Ordinance. It is the property owner's responsibility to ensure setback requirements are met; a survey is recommended to verify property line locations. Improvements cannot direct runoff to adjacent properties; structures and obstructions over service lines or easements are the property owner's responsibility and are not recommended.

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Owner:	Contractor/Applicant:
Improvement Address:	Property Code:

**AFFIDAVIT**

I agree that the statements and information above and submitted with this application are true, and if found not to be true, any permits that may be issued may be void. I agree to comply with the conditions and regulations provided with any permit that may be issued. I agree that the permit that may be issued is with the understanding that all applicable sections of the City of Tawas City Zoning Ordinance will be complied with. I agree to contact the Tawas City Zoning Administrator for inspection before the start of construction and when locations of proposed uses are marked on the ground. I agree to give permission for officials of the City of Tawas City, the County of Iosco, and the State of Michigan to enter the property subject to this permit application for purposes of inspection. I understand that, if issued, this permit conveys only land use rights, and does not include any representation or conveyance of rights in any other statute, building code, deed restriction, or other property rights.

In consideration of the granting of this permit, I agree to comply with all applicable ordinances of the City of Tawas City, and the City shall not be liable for any damages resulting therefrom.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Zoning Administrator's/Zoning Board of Appeals Approval

\_\_\_\_\_  
Date

Additional permits may be required from:

- Iosco County Building Department
- MI Dept. of Environmental Quality
- MI Dept. of Transportation
- other \_\_\_\_\_

# Article 8 Zoning Board of Appeals

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## Section 8.01 Creation & Membership

### A. Creation.

Pursuant to the [Michigan Zoning Enabling Act, 2006 PA 110](#) (MCL 125.3101 et seq.), as amended, there shall be established and appointed by the City Council, a Zoning Board of Appeals (ZBA).

### B. Membership.

- Members and Terms of Office.** Such board shall consist of five (5) members, one (1) of whom shall be a member of the City Council, one (1) a citizen member of the Planning Commission with appointment by the City Council coinciding with his/her Planning Commission term, and three (3) members who shall be selected from the electors of Tawas City and appointed by the City Council. In the latter instance, one (1) of such members shall be appointed for a one (1) year term, one (1) of such members shall be appointed for a two (2) year term, and one (1) of such members shall be appointed for a three (3) year term. Thereafter, each member shall be appointed to hold office for a full three-year term.
- No elected official or employee of the City, other than the appointed City Council member, shall be a member of the Zoning Board of Appeals.
- An elected official of the City may not serve as chairperson or vice-chairperson of the Zoning Board of Appeals.
- Vacancies.** Any vacancy in the Zoning Board of Appeals shall be filled by the City Council for the remainder of the unexpired term.
- Per Diem.** Compensation of members of the Zoning Board of Appeals shall be fixed by the City Council.

- 6. **Alternates.** The City Council may also, if it so desires, appoint not more than two (2) alternate members for the same term as regular members of the Zoning Board of Appeals. An alternate member may be called in the absence of a regular member of the Zoning Board of Appeals who will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. Alternates shall be selected from the electors of Tawas City.
- 7. **Officers.** The Zoning Board of Appeals shall annually elect its own chairperson and at such other times as the Board may determine by rule.
- 8. **Dual Membership on the ZBA/Planning Commission.** A member of the Zoning Board of Appeals who is also a voting member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.
- 9. **Removal of Members.** Members of the Zoning Board of Appeals shall be removed by the City Council for misfeasance, nonfeasance, or malfeasance of duty or misconduct in office upon written charges and after a public hearing. A member shall ask to be disqualified from a vote in which the member has a conflict of interest. Failure of a member to ask to be disqualified from a vote in which the member has a conflict of interest constitutes malfeasance in office.

C. **Administration.**

- 1. **Rules of Procedure and Records.** The Zoning Board of Appeals shall adopt its own rules of procedure and shall maintain a record of its proceedings which shall be filed in the office of the City Clerk and shall be a public record. The fees to be charged for appeals shall be set by resolution of the City Council. All meetings of the Zoning Board of Appeals shall be open to the public.
- 2. **Quorum and Majority Vote.**
  - a. The Zoning Board of Appeals shall not conduct business unless a majority of those Zoning Board of Appeals members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.
  - b. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or the Planning Commission, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

<b>1</b> Purpose & Authority	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> District Regulations	<b>5</b> Plot Plan & Site Plan Review
<b>6</b> Special Land Use Review	<b>7</b> Supplemental Regulations	<b>8</b> Zoning Board of Appeals	<b>9</b> Administration & Enforcement	<b>10</b> Adoption & Amendments

## Section 8.02 Powers of the Zoning Board of Appeals

The Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an appeal, administrative review, interpretation, exception, or variance as defined as follows:

### A. Interpretation.

The Zoning Board of Appeals shall hear and decide questions that arise in the administration of the Zoning Ordinance including its interpretation and interpretation of the Zoning Map.

### B. Administrative Review.

The Zoning Board of Appeals shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by any City administrative official or body charged with enforcement of this Ordinance.

### C. Non-Use Variance.

The Zoning Board of Appeals may grant non-use variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this Ordinance or to any other non-use-related standard in this Ordinance. Variances may be granted when practical difficulties prevent compliance with the strict letter of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. In granting any variance, the Zoning Board of Appeals may attach thereto such conditions, pursuant to [Section 9.07](#), regarding the location, character, or other features of the proposed uses as it may deem reasonable in furtherance of the purposes of this Ordinance. In granting a variance, the Zoning Board of Appeals shall state the grounds upon which it justified the granting of a variance.

### D. Powers Not Granted.

1. **Amendments.** The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property nor to make any change in the terms of this Ordinance.
2. **Special Land Use Approvals.** The Zoning Board of Appeals shall not hear appeals of decisions regarding special land use or planned unit development requests.
3. **Use Variances.** The Zoning Board of Appeals shall not allow a use in a district in which it is not listed as a Permitted Use or Special Land Use in [Article 4](#).

## Section 8.03 Appeals Procedures

### A. Notice of Appeal.

1. Appeals and requests made to the Zoning Board of Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau by filing a Notice of Appeal with the Zoning Board of Appeals on appropriate forms provided by the City and payment of the required fee. The Notice of Appeal shall be made within thirty (30) days after a decision by the Zoning Administrator or Planning Commission.
2. The Zoning Board of Appeals may require the applicant to furnish surveys, plans, or other information as may be reasonably required to the Zoning Board of Appeals for the proper consideration of the matter.
3. The applicant shall submit one (1) electronic and four (4) hard copies of a completed application with associated fee and information required by the Zoning Administrator including surveys, site plan, plot plan, or other information deemed reasonably necessary for making any informed decision on the appeal, not less than forty-five (45) days prior to the date of the hearing.
4. Fees for the processing of appeals shall be established by resolution of the City Council.

### B. Public Hearing.

1. The Zoning Board of Appeals shall fix a reasonable time for the hearing of an appeal or request for interpretation or variance, giving due notice thereof pursuant to the notice requirements of [2006 PA 110](#) (MCL 125.3101 et seq.), as amended (see [Section 9.08](#)).
2. **Appearance.** Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney. The Zoning Board of Appeals shall have the power to require the attendance of witnesses, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Zoning Board of Appeals.
3. All hearings conducted by the Zoning Board of Appeals shall be open to the public in compliance with the **Open Meetings Act, 1976 PA 267**, as amended.

### C. Stay.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.

### D. Decision.

<b>1</b> Purpose & Authority	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> District Regulations	<b>5</b> Plot Plan & Site Plan Review
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1. The Zoning Board of Appeals may reverse or affirm wholly or partly or may modify an order, requirement, decision, or determination as, in its opinion, ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or the Planning Commission, or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance or to effect any variation from this Ordinance.
2. **Appeal to Circuit Court.** The decision of the Zoning Board of Appeals shall not be final, and any person having an interest affected by this Ordinance shall have the right to appeal to the Circuit Court on questions of law and fact. An appeal from a decision of a Zoning Board of Appeals shall be filed within whichever of the following deadlines comes first:
  - a. Thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson.
  - b. Twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision.

The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.

## Section 8.04 Standards

Each case before the Zoning Board of Appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. The applicant must show practical difficulty by demonstrating all of the following:

- A. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography, and is not due to the applicant’s personal or economic hardship.
- B. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
- C. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.
- D. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).

- E. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district, and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of Tawas City.

### Section 8.05 Expiration

No order of the Zoning Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than eighteen (18) months unless actual construction and development have been commenced in accordance with said approval prior thereto.

### Section 8.06 Resubmittal

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to [Section 9.10](#) of this Ordinance.

<b>1</b> Purpose & Authority	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> District Regulations	<b>5</b> Plot Plan & Site Plan Review
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