

**LEE TOWNSHIP  
ALLEGAN COUNTY, MICHIGAN**

**ORDINANCE NO. 2028**

**STATE CONSTRUCTION CODE ORDINANCE**

An ordinance to assume responsibility for the administration and enforcement of the State Construction Code Act within the Township, to designate an enforcing agency, to establish a building board of appeals, and to provide for fines and sanctions.

**THE TOWNSHIP OF LEE, ALLEGAN COUNTY, MICHIGAN ORDAINS:**

**Section 1. Assumption of Responsibility.**

Pursuant to Section 8b of the Michigan State Construction Code Act, being 1972 PA 230, as amended, the Township of Lee assumes responsibility for the administration and enforcement of the Michigan Building, Electrical, Mechanical, and Plumbing Code, as amended from time to time.

**Section 2. Designation of Enforcing Agency.**

The Building Official of the Township of Lee is hereby designated as the enforcing agency to discharge the responsibility of the Township of Lee in administering and enforcing the State Construction Code throughout the corporate limits of the Township.

**Section 3. Establishment of Construction Board of Appeals.**

a. There is hereby established a construction Board of Appeals which shall consist of three (3) members. The members of the Board of Appeals shall be appointed for 2-year terms by the Township Supervisor. A member of the Board of Appeals shall be qualified by experience or training to perform the duties of members of the Board of Appeals. If the Building Official refuses to grant an application for a building permit, or if the Building Official makes any other decision pursuant or related to the administration or enforcement of the State Construction Code in the Township, an interested person, or the person's authorized agent, may appeal in writing to the Board of Appeals. The Board of Appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the Building Official 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 is a denial of the appeal for purposes of authorizing the institution of an appeal to the State Construction Code commission. A copy of the

decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal. Except as otherwise provided by this act, or by other laws or ordinances, the Board of Appeals may by rules establish its own procedures.

b. The business which the Board of Appeals may perform shall be conducted at a public meeting of the Board of Appeals held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

c. A record of decisions made by the Board of Appeals, properly indexed, and any other writing prepared, owned, used, in the possession of, or retained by the Board of Appeals in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

#### **Section 4. Variances; grounds; conditions, granting, breach.**

a. After a public hearing, the Board of Appeals may grant a specific variance to a substantive requirement of the Code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

i. 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 welfare of the people of this state.

ii. 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.

b. The 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. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

#### **Section 5. Appeals to state construction code commission.**

An interested person, or the interested person's authorized agent, may appeal a decision of a Board of Appeals to the commission within ten (10) business days after filing of the decision with the Building Official or, in case of an appeal because of failure

of a Board of Appeals to act within the prescribed time, at any time before filing of the decision.

#### **Section 6. Effect of Appeals on Stop Construction Orders.**

An appeal to a Board of Appeals does not stay a stop construction order issued by the Building Official or prevent the Building Official from seeking an order in a court of competent jurisdiction enjoining the violation of a stop construction order. In other cases, an appeal to the Board of Appeals shall act as a stay upon an order, determination, decision or action appealed from, unless the Building Official establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.

#### **Section 7. Sanctions and Enforcement.**

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction, as defined by Michigan law, which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum</u> <u>Fine</u>	<u>Maximum</u> <u>Fine</u>
1 <sup>st</sup> Offense	\$ 75.00	\$500.00
2 <sup>nd</sup> Offense within 3-year period*	150.00	500.00
3 <sup>rd</sup> Offense within 3-year period*	325.00	500.00
4 <sup>th</sup> or More Offense within 3-year period*	500.00	500.00

\*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Lee Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

The Building Official and any deputy sheriff enforcing Township ordinances pursuant to an interlocal agreement between the Township and the county sheriff are hereby authorized to issue and serve appearance tickets under this Ordinance and as provided by MCL 764.9c(2).

### Section 8. Severability; validity.

The several provisions of this Ordinance are declared to be separate; if any court shall rule that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance.

### Section 9. Repealer; Savings clause.

Any section or provision of any other ordinance which is inconsistent with this Ordinance is hereby repealed, with the exception that the adoption of this Ordinance shall not effect any enforcement proceeding or prosecution which may be pending under any other ordinance, which enforcement proceeding or prosecution shall continue until conclusion

### Section 10. Effective Date.

This Ordinance shall take effect thirty (30) days after its publication as required by law.

Moved by member D. CHRISTENSEN, supported by member S. BLACK to adopt the foregoing ordinance.

Ayes: S. BLACK, J. LOWERY, S. MOORE AND D. CHRISTENSEN

Nays: NONE

Absent/Abstentions: J. CERICOLA

### CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Board of Lee Township, Allegan County, Michigan, at a meeting held on MARCH, 25, 2003. I further certify that the Ordinance was published on APRIL, 3, 2003 in the ALLEGAN COUNTY NEWS. I further certify that a copy of this Ordinance was filed with the Allegan County Clerk and will be effective on MAY 3, 2003, which is thirty (30) days after its publication on APRIL, 3, 2003.

Donna L. Christensen  
Township Clerk