

ARTICLE X. ADMINISTRATION

Section 10.1 Planning Commission

There is hereby created a planning commission of five (5) members consisting of the Mayor of Bradner, one member of the Council of Bradner to be elected by Council for the duration of his term as a member of Council, and three (3) citizens of the Village of Bradner to be appointed by the Mayor and confirmed by council for terms of six (6) years each, except that the term of one of the members of the first commission shall be for four (4) years and one for two (2) years. In the event of a vacancy the Mayor shall appoint and council shall confirm a qualified person to serve the unexpired term.

10.1.1 Powers and Duties

a. Review and Recommendation

The Planning Commission shall have all powers now or hereafter authorized by law to be delegated to any administrative board with respect to any planning or zoning ordinance for the purposes of this ordinance. The Planning Commission shall provide review and recommendation to Village Council on matters of zoning map changes and amendments and serve as the board of appeals on matters of zoning appeal, granting of exceptions and variances and conditional uses.

b. Procedure Rules

The Planning Commission may adopt its own rules of procedure not inconsistent with the terms of this ordinance and shall keep a record of its proceedings. The presence of three (3) members shall be necessary to constitute a quorum and no action shall be taken or decision made by the Planning Commission except by the vote of at least three (3) of its members. The Planning Commission shall meet at the Village Hall, in the Village of Bradner, upon call of the Mayor or a majority of the members of the Commission, and all meetings shall be open to the public.

c. Appeals .

1. The Commission shall have the power to hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by any administrative official in the enforcement of this Ordinance.
2. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Planning Commission after the notice of appeal shall have been filed with it that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to like of property, in which case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Commission or by a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown.
3. The Commission may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its option ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.

d. Exceptions

In hearing and deciding appeals, the Commission shall have the power to grant an exception in the following instances:

1. Interpretation
Interpret provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made a part of this Ordinance where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

2. Replacement of Nonconforming Buildings
Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 60% percent of its fair market value where the Commission finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
3. Modification of Parking and Loading Space Requirements
Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements; or permit (a) the waiver of the requirement that automobile parking space be provided on the same lot with a dwelling, if other suitable and convenient parking space is available within or without a building; or (b) the dual use of parking facilities (i.e. by stores during the day and theaters during the evening) provided there is no overlapping of use and the parking space requirements for each building or use are complied with during each period.
4. Public Parking Areas Location
Permit in the Residential Districts, public parking areas or storage garages adjacent to any existing or proposed use in the multiple dwelling, commercial or industrial districts.
5. Use Impact Determinations
Determine whether an industry should be permitted within an "M" Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

6. Substitution of Nonconforming Uses
The substitution of a nonconforming use existing at the time of enactment of this Ordinance of another nonconforming use, if no structural alterations except those required by law or ordinance are made; provided, however that in an Residential District, no change shall be authorized by the Commission to any use which is not a permitted or special use in any Residential District, and in a "C" District no change shall be authorized to any use which is not a permitted or special use in any "C" District.

7. More Than One (1) Main Use on a Parcel
Within any zoned district, the placing of more than one (1) main building on a lot, when all of the buildings are intended to be operated as a single enterprise and the lot and all portions of its are owned, leased, or under option by a single party. In such cases, the yard requirements shall apply along all edges of the lot, but shall not be required for the internal arrangement of the buildings on the Lot. Height, bulk, and lot area per family shall apply as in the case of one main building located on a lot. An application for the placing of more than one (1) main building on a lot shall be accompanied by a site plan. Proposals for placing more than one (1) residential main building on a lot shall be referred to the Planning Commission for review and approval.

8. Temporary Structures and Uses
Permit the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure.

A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than a 12 month period in undeveloped sections of the Village and not more than six (6) months in developed sections, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

9. Minimum Front Yard - Reduction
To maintain consistency in building lines, for new buildings (excluding additions) a minimum front yard may be reduced to obtain conformity with the building line of existing main buildings on abutting properties.

e. Variances

In hearing and deciding appeals, the Commission shall have the power to authorize such variances from the provisions or requirements of this Ordinance as will not be contrary to the public interest. In authorizing a variance, the Commission may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Ordinance. On appeal where there is unnecessary hardship, the Commission may grant a variance in the application of the provisions of the Zoning Ordinance only if all of the following findings are made:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- f. Nonconforming Uses - Extensions or Permit
The Commission shall have the authority to grant an extension or permit completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extension shall not exceed in all 100% of the floor area of the existing building or buildings devoted to a nonconforming use.

Section 10.2 Procedure

Appeals, variances and exceptions uses shall conform to the procedures and requirements of this Ordinance.

10.2.1 Application

- a. Application: All applications shall be in writing, shall be signed by the owner of the property involved or his duly authorized agent or attorney, shall specify the request and grounds thereof, and shall be filed in the office of the Zoning Inspector.

- b. An appeal from any action, refusal or ruling of the Zoning Inspector shall be filed within 20 days after such action or refusal or the announcement of such ruling. The Zoning Inspector shall forthwith transmit to the Commission all the papers constituting the record upon which the action or ruling appealed from was taken.

10.2.2 Review by Other Officials:

The Planning Commission appeals may request additional information or review of the appeal, exception or variance, Special use permit by other Village officials, or County agencies. Said information or review shall be delivered to the Planning Commission within 45 days after the receipt of the request. Failure to disapprove the same within such period shall constitute approval thereof.

10.2.3 Public Hearing and Notice:

The Commission shall hold a hearing on each appeal or request for variance or exception after at least a 10 day notice, both in writing to the parties in interest and by publishing in one or more newspapers of general circulation in the Village, stating the time and place thereof. The Commission shall make its findings and determination in writing within 40 days from the date of the filing of the appeal or the request for variance or exception. A copy of such findings and determination shall be transmitted to the applicant within 30 days thereafter.

10.2.4 Supplemental Conditions and Safeguards:

In granting any appeal, exception or variances the Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. If the application is approved or approved with modifications, the Commission shall direct the Zoning Inspector to issue the permit listing the specific conditions specified by the Commission of approval.

Violations of such conditions and safeguards, when made a part of the terms under which the use is granted, shall be deemed a violation of this resolution and publishable under Section 10.6.

10.2.5 Schedule of Fees, Charges, and Expenses:

The Village Council, shall by ordinance, establish a schedule of fees, charges, and expenses and a collection procedure for appeals, permits for exceptions or variances, and other matters pertaining to the administration and enforcement of this Ordinance requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may altered or amended only by the Village Council Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

10.2.6 Record of Appeals, Exceptions or Variances,

A public record of all appeals, or applications for granting an exception or variances, and their disposition shall be kept on file in the office of the Zoning Inspector.

10.2.7 Appeal of Board Decisions:

If the application is disapproved by the Commission, the applicant may seek relief through the Court of Common Pleas. Appeals from the Commission decisions shall be made within 10 days of the Commission's written decision.

10.2.8 The Planning Commission has the power to revoke a variance or an exception for noncompliance. The Commission shall notify the affected party of their intent to revoke by the mailing of a notification by certified mail. The affected party has the right to request a hearing within 30 days of the mailing of the notification, in which case the board shall notify the party of the time and place of the hearing. Revocation of a variance or an exception shall become effective 30 days after notice has been given, unless a hearing has been requested.

Section 10.3 Zoning Certificate

- 10.3.1 Requirement: No person shall locate, erect, construct, enlarge or structurally alter any non-farm building or structure within the village without obtaining a zoning certificate. No zoning certificate shall be issued unless the plans for the proposed building or structure fully comply with the zoning regulations.
- 10.3.2 Applications: Written applications for a Zoning Certificate shall be made to the Village of Bradner, or their authorized agent. Accurate information shall be supplied by the applicant.
- 10.3.3 Agricultural Buildings Zoning Certificates shall not be required for agricultural buildings and temporary housing for seasonal agricultural workers.

Section 10.4 Fees

- 10.4.1 Fees: A fee schedule shall be established by the Village of Bradner and shall accompany each application for a zoning certificate, payable to the Village Clerk.
- 10.4.2 Failure to Obtain a Zoning Certificate: Shall be a violation of this resolution and punishable under Section of this ordinance.

Section 10.5 Enforcement and Penalties

- 10.5.1 Enforcement: This Ordinance shall be enforced by the Village Council, or such enforcement officer as may be designated by said Council.
- 10.5.2 Revocation of Zoning Certificate: Any Zoning Certificate issued upon a false statement shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Village Council, the Zoning Certificate shall be revoked by notice in writing to be delivered to the holder of the void Certificate upon the premises concerned, or if such holder be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning

Certificate, in accordance with this Ordinance, shall be deemed guilty of violation thereof.

10.5.3 Violation: In case any building is, or is proposed to be located, erected, constructed, enlarged, changed, maintained or used, or any land is, or is proposed to be used in violation of this Ordinance, the Village Council, the Village Attorney, the Village Zoning Inspector, or any neighboring property owner who would be damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate actions or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, enlargement, change, maintenance or use.

10.5.4 Fine: Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100.00. Each and every day during which such illegal location, erection, construction, enlargement, change, maintenance, use or non-compliance continues may be deemed a separate offense.