

VILLAGE OF MATTAWAN

CONSTRUCTION BOARD OF APPEALS ORDINANCE

Ordinance No. 200

AN ORDINANCE ESTABLISHING A CONSTRUCTION BOARD OF APPEALS FOR THE VILLAGE OF MATTAWAN PURSUANT TO THE PROVISIONS OF ACT 230 OF 1972, MCLA 125.1514, AND ESTABLISHING THE PROCEDURES TO BE FOLLOWED IN AN APPEAL TO THE BOARD, AND THE PROCEDURES TO BE FOLLOWED IN THE BOARD'S DECISION MAKING PROCESS.

WHEREAS, The Village of Mattawan, Van Buren County, Michigan, has adopted the State of Michigan Construction Code Act, and now wishes to establish a Construction Board of Appeals, as anticipated by the Act:

THE VILLAGE OF MATTAWAN ORDAINS:

SECTION 1 TITLE

This Ordinance shall be known and cited as the Village of Mattawan "Construction Board of Appeals Ordinance."

SECTION 2 PREAMBLES

The Village of Mattawan is a qualifying subdivision for the purposes of the Still-Derossett-Hale Single State Construction Code Act. The Village therefore has established a Construction Board of Appeals, and procedures for appeals to the Board. The Ordinance is adopted for the purpose of effecting all of the functions described in Act 230 of 1972.

SECTION 3 ESTABLISHMENT OF BOARD

The Village of Mattawan hereby establishes a Construction Board of Appeals. The Board shall consist of three (3) members who shall be appointed by the Village Council. Each Board Member shall be qualified by experience or training to perform the duties necessary to determine the appropriateness of questions brought before the Board. Members shall first be chosen from applicants who live in the Village or work in the Village on a regular basis. If necessary to complete the Board, Members may be selected who do not live or work in the Village on a regular basis. The term for each member shall be four (4) years. However, the initial appointments shall be for terms of two (2), three (3) and four (4) years, as the Village Council determines to be appropriate.

SECTION 4 APPEALS TO THE BOARD

If the Village or its designated agent refuses to grant an application for a building permit, or makes any other decision pursuant or related to the Act or Building Code, an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. All such appeals shall be in writing, shall contain a detailed statement of the reasons why the appeal should be granted and shall be signed by the applicant or the applicant's authorized agent. The Village may provide a form for use in appeals if it chooses. All appeals shall be accompanied by a fee set by the Village. Applicants shall pay all expenses incurred by the Village in the appeal process, including, in part, inspection fees, engineering fees, attorney fees and all out of pocket expenses.

SECTION 5 HEARINGS BEFORE THE BOARD

The Board shall conduct a public hearing, hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than thirty (30) days after submission of the appeal.

SECTION 6 STANDARD FOR GRANTING A VARIANCE FROM THE BUILDING CODE

After a public hearing, the Board may grant a specific variance to a substantive requirement of the Building 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: (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 welfare of the public, and (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.

No variance shall be granted which is greater than the minimum variance required to alleviate the exceptional, practical difficulty.

SECTION 7 CONDITIONS ATTACHING TO VARIANCES

The Board's decision may include in writing any condition with the grant of any variance that the Board judges to be necessary to protect the health, safety and welfare of the public. The breach of any such condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of the condition.

SECTION 8 PUBLIC NATURE OF BOARD ACTIONS

The business which the Board performs shall be conducted at a public meeting of the Board 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.

SECTION 9 RECORD OF DECISIONS

A record of decisions made by the board of appeals, properly indexed, and any other writing prepared, owned or used 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 10 DURATION

This Ordinance shall remain in effect until repealed or modified by the Village Council of the Village of Mattawan.

SECTION 11 SEVERABILITY

The various Articles and provisions of this Ordinance shall be deemed to be severable, and should any Article or provision of this Ordinance be declared by any court or competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any Article or provision of this Ordinance other than the Article or provision so declared to be unconstitutional or invalid.

SECTION 12 EFFECTIVE DATE

This Ordinance shall become effective upon publication complying with Village Charter, Chapter VII, Section 7.4. Any existing Ordinance or portion of an Ordinance in conflict with this Ordinance is repealed to the extent of such conflict.