



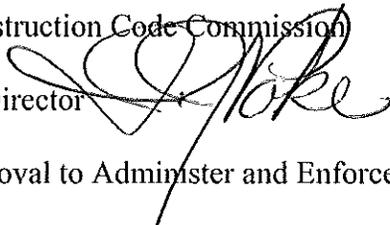
RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

STEVEN H. HILFINGER
DIRECTOR

DOCUMENT #11-31

June 24, 2011

TO: Members of the Construction Code Commission
FROM: Irvin J. Poke, AIA, Director 
SUBJECT: Application for Approval to Administer and Enforce a Code

The following unit of government has submitted an application for approval to administer and enforce the Michigan code, along with a proposed ordinance:

1. **E-11-08 Alpena Township/Alpena County**
Michigan Electrical Code
Inspector/Plan Reviewer: Frank Rosinski (Registration No. 005160)
Previously state enforced

FINDINGS

1. There was no ordinance provided for review.
2. A reference to the City of Alpena is made within the instructions for completion the application for an electrical permit form.
3. There was no electrical permit form provided for review.
4. There were no procedures for the governance of the Township's Construction Board of Appeals provided for review.
5. There is no information indicating the method and means of inspector compensation.

Providing for Michigan's Safety in the Built Environment

LARA is an equal opportunity employer
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
P.O. BOX 30254 • LANSING, MICHIGAN 48909
www.michigan.gov/bcc • Telephone (517) 241-9302 • Fax (517) 241-9570

6. There is no copy of an inspector employment agreement or contract provided for review.
7. There was no information providing the days and hours of enforcing agency operation.
8. There was no information regarding the method and calculations utilized to establish the fees charged for construction code services provided to the public.
9. There were no proposed building department budget and staffing information provided for review.
10. The township should provide assurance that a library of codes and standards are available for use by the inspectors and plan reviewers.

RECOMMENDATION: Due to concerns listed above regarding the Township's Application to Administer and Enforce, staff recommends that the unit of government listed not be approved to administer and enforce the code.

IJP/hc

Township of Alpena

ALPENA TWP. CIVIC BLDG.
4385 U.S. 23 North
ALPENA, MICHIGAN 49707

Telephone: (989) 356-4024

June 17, 2011

Michigan Dept of Energy, Labor & Economic Growth
Bureau of Construction Codes/Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909

Re: Application to Administer & Enforce

Dear Sir:

Please find enclosed an application to administer and enforce electrical codes in the Township of Alpena. We currently enforce the building codes with a local inspector and we are seeking your approval to use a local electrical inspector.

Prior to this, we used a state inspector for those services. The state provided good electrical service, but we now find our residents and contractors have to wait too long for an inspection as the inspector lives in the upper part of the state.

We are creating a partnership with the City of Alpena to provide this service to our contractors and residents.

Thank you for the years you provided to our community. Your service for the electrical was appreciated and we look forward to the continued service of the mechanical and plumbing.

Sincerely,



Marie A. Twite
Supervisor

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011

**BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES**

Application to Administer and Enforce
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Office of Administrative Services
 P.O. Box 30254, Lansing, MI 48909
 517-335-2972
 www.michigan.gov/bcc

RECEIVED
 DEPT. OF LABOR &
 ECONOMIC GROWTH

JUN 20 2011

**BUREAU OF CONSTRUCTION CODES
 OFFICE OF ADMINISTRATIVE SERVICES**

Authority: 1972 PA 230 Completion: Mandatory Penalty: Governmental subdivisions will not be approved to administer and enforce code(s)	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
--	---

NAME OF GOVERNMENTAL SUBDIVISION ALPENA Township		CONTACT PERSON (Elected Official) MARIE TWITE	
ADDRESS (Street Number and Name) 4385 US 23 N.			
CITY ALPENA	COUNTY ALPENA	STATE MI	ZIP CODE 49707
TELEPHONE NUMBER (Include Area Code) 989-356-4024	FAX NUMBER (Include Area Code) 989-356-9540	E-MAIL ADDRESS	

A. Code Adoption

To assume responsibility for the administration and enforcement of the act and the state code in accordance with Section 8b(6) of 1972 PA 230. Attach a copy of the ordinance assuming responsibility for administration and enforcement of the act and the code. (Ordinance may be a proposed ordinance)

State Code(s) to be Enforced

Building *Already Enforcing* Mechanical
 Electrical Plumbing

B. Enforcing Agency

1. This is to certify the enforcing agency is qualified by experience or training to perform the duties associated with construction code administration and enforcement, including the code and all related acts and rules.

Name of Inspector(s) <small>(Attach additional sheet, if necessary)</small>	Registration Number	Experience and/or Qualifications
LESLIE KLIMASZEWSKI	3407	Bld Inspector For ALPENA Since 1994
FRANK ROSINSKI	5160	ELECTRICAL INSPECTOR Since 2004

Name of Plan Reviewer(s) <small>(Attach additional sheet, if necessary)</small>	Registration Number	Experience and/or Qualifications
LESLIE KLIMASZEWSKI	3407	PLAN Reviewer Since 1994
FRANK ROSINSKI	5160	PLAN Reviewer Since 2004

Each inspector listed on the application must provide verification that he/she will perform inspections and/or plan review functions for the specific code discipline(s) identified.

Are the inspector(s) listed above associated with a private inspection agency? Yes No

If yes, complete the following:

Name and address of the private inspection agency _____

Governmental official responsible for the decision making as it relates to code administration and enforcement.

Name _____ Title _____ Registration No. _____

(Attorney General Opinion No. 4885, dated August 15, 1975, provides that an enforcing agency must be a public official or governmental agency. Inspection functions or other technical assistance may be performed under contract with a private organization, but all decisions and official actions based on such inspection or technical advice must be made by the enforcing agency. Any formal actions such as the issuance, suspension, revocation, or cancellation of permits is exclusively within the purview of the governmental entity. Decision making by a non-governmental entity in which government is not the final authority is in violation of the Michigan Constitution.)

B. Enforcing Agency (continued)

2. This is to certify the following services will be provided by the enforcing agency:

<input checked="" type="checkbox"/> Plan Review	<input checked="" type="checkbox"/> Permit issuance	<input checked="" type="checkbox"/> Timely field inspections
<input checked="" type="checkbox"/> Issuance of final approval and certificate of occupancy	<input checked="" type="checkbox"/> Retention of records	<input checked="" type="checkbox"/> Identification/resolution of code violations

3. This is to certify a copy of the ordinance(s) assuming the responsibility to administer and enforce the state code(s) and a copy of each code enforced will be available for public viewing at the offices of the local governmental subdivision.

4. This is to certify the application for permit and permit forms are in compliance with the requirements of Section 10 of 1972 PA 230. **Attach copies of the application(s) for permit and a copy of the permit form.**

5. This is to certify that procedures for the administration and enforcement of the code have been adopted by the enforcing agency. These procedures govern the operation of the code administration and enforcement program for the governmental subdivision. The procedures should include:

- (i) How permit applications are reviewed and approved.
- (ii) How plans are reviewed and violations identified during the process are resolved.
- (iii) How permits are issued.
- (iv) How inspections are scheduled and findings reported.
- (v) How code violations identified during inspections are resolved.
- (vi) Record keeping procedures.
- (vii) How certificates of occupancy and final approvals are issued.

RECEIVED
DEPT. OF LABOR & ECONOMIC GROWTH

JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

Attach a copy of the procedures for the administration and enforcement of the code(s).

6. This is to certify fees have been adopted for the administration and enforcement of the code(s) in compliance with Section 22 of 1972 PA 230. **Attach a copy of the fee schedule.**

C. Construction Board of Appeals

This is to certify a Construction Board of Appeals has been established in accordance with Section 14 of 1972 PA 230: The names and qualifications of the members of the Construction Board of Appeals is listed below. *(Attach additional sheet, if necessary)*

Attach a copy of the Board of Appeals procedures.

Name	Qualifications <small>(Include professional license number and/or registration number)</small>
Kurt Broers	Residential Builder #210107001
DARRELL SIESS	" " #2101094671
RYAN FAIRCHILD	Electrician/Contractor #ME 6214519 #RS 641677
Thomas P. Hilberg	Engineer #6201030554
Robert Weinkauff	Plumbing Contractor
Chuck Schenfelder	ELECTRICIAN

D. Certification

I certify the information given in this application to administer and enforce is true and accurate to the best of my knowledge.

Name of Elected Official (Type or Print) MARIE A. TWITE Title SUPERVISOR

Signature of Elected Official Marie A. Twite Date 6/17/2011

Copies of all documents attached to or submitted with this application should include a reference to the governmental subdivision.

ALPENA TOWNSHIP
BUILDING DEPARTMENT

989-358-2737

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

Permit application procedures for Electrical Permits

1. Review that electrical permit application is filled out properly and signed by applicant.
2. Collect appropriate fee from fee schedule on reverse side.
3. Have applicant fill out plan review application if required.
4. Collect plan review fee deposit of \$100.00. This will be total fee for small commercial projects. Larger commercial or industrial projects may require more time to review and will be assessed a higher fee based on time required by plan review staff. In any case the fee will not exceed \$300.00 and the applicant will be notified of the fee when plan review staff have had chance to look at the plans.
5. All plan reviews will be completed within 7 working days.
6. If plan review application is not required, issue permit within 5 working days. Simple electrical permits will be issued on the same day application is received.

Electrical plan review procedures

1. Give plans and application to electrical inspector/plan reviewer for review.
2. Call applicant and inform them of fee if over the original \$100.00 deposit.
3. Review plan according to applicable Michigan Electric Code.
4. Document any deficiencies in writing with applicable code section numbers and send notice to applicant, or stamp plans approved and sign them and issue permit.

5. All plan reviews and electrical permits will be issued using the BSA Permitting software currently in use for building permits.

Inspections

1. Permit holder calls city for inspection. 24 – 48 hours notice required.
2. Electrical inspector is notified and inspection is scheduled.
3. Inspection will be recorded in BSA permitting software.
4. Deficiencies/violation notice will be sent to permit holder with code sections attached if applicable.
5. If inspection passes it will be noted on weather card, or inspection sticker left on site.
6. Results of inspection will be recorded on BSA software.
7. At completion of project after final inspection has been approved, copies of all inspections in BSA will be copied to paper file and put in property record.

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

Township of Alpena
Electrical Permit Application
 4385 US 23 North
 Alpena, MI 49707
 (989) 358-2737
 www.alpenatownship.com

Authority:	1972 PA 230
Completion:	Mandatory to obtain permit
Penalty:	Permit can not be issued

I. Job Location

NAME OF OWNER/AGENT	HAS A BUILDING PERMIT BEEN OBTAINED FOR THIS PROJECT? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not required
STREET ADDRESS AND JOB LOCATION (Street Number and Name)	

II. Contractor / Homeowner Information

INDICATE WHO THE APPLICANT IS <input type="checkbox"/> Contractor <input type="checkbox"/> Homeowner	NAME	STATE LICENSE NUMBER	EXPIRATION DATE
ADDRESS (Street Number and Name)		STATE REGISTRATION NUMBER	LOCAL LICENSING JURISDICTION
CITY	STATE	ZIP CODE	LOCAL LICENSE NUMBER EXPIRATION DATE
TELEPHONE NUMBER (Include Area Code)		FEDERAL EMPLOYER ID NUMBER (or reason for exemption)	
WORKERS COMPENSATION INSURANCE CARRIER (or reason for exemption)		UIA NUMBER (or reason for exemption)	

III. Type of Job

<input type="checkbox"/> Single Family	<input type="checkbox"/> New	<input type="checkbox"/> Service Only	<input type="checkbox"/> Premanufactured Home Setup (State Approved)	<input type="checkbox"/> State Owned
<input type="checkbox"/> Other	<input type="checkbox"/> Alteration	<input type="checkbox"/> Special Inspection	<input type="checkbox"/> Manufactured Home Setup (HUD Mobile Home)	<input type="checkbox"/> School

IV. Plan Review Required

Plans must be submitted with an Application for Plan Examination and the appropriate deposit before a permit can be issued, except as listed below.

Plans are not required for the following:

- When the electrical system rating does not exceed 400 amps and the building is not over 3,500 square feet in area.
- Work completed by a governmental subdivision or state agency costing less than \$15,000.00.

If work being performed is described above, check box below "Plans Not Required."

What is the rating of the service or feeder in ampere? _____
 What is the building size in square footage? _____

Plans are required for all other building types and shall be prepared by or under the direct supervision of an architect or engineer licensed pursuant to 1980 PA 299 and shall bear that architect's or engineer's seal and signature.

Plan Review Project No. _____ Plans Not Required

V. Applicant Signature

Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines.

SIGNATURE OF CONTRACTOR OR HOMEOWNER (Homeowner signature indicates compliance with Section VI. Homeowner Affidavit)	DATE
--	------

VI. Homeowner Affidavit

I hereby certify the electrical work described on this permit application shall be installed by myself in my own home in which I am living or about to occupy. All work shall be installed in accordance with the Michigan Electrical Code and shall not be enclosed, covered up, or put into operation until it has been inspected and approved by the Local Electrical Inspector. I will cooperate with the Local Electrical Inspector and assume the responsibility to arrange for necessary inspections.

Complete Application on Back Side



JUN 20 2011

VII. Fee Clarification

Item #17, Mobile Home Unit Site:
 When installing a site service in a park, the permit application must include the application fee, service, plus the number of park sites.
 When setting a HUD mobile home in a park, a permit must include the application fee and a feeder. This shall be done by a licensed electrical contractor.
 When setting a HUD mobile home or a premanufactured home on private property, a permit must include the application fee, service and feeder, and a final inspection.

VIII. Fee Chart - enter the number of items being installed, multiply by the unit price for total fee.

	Fee	# Items	Total		Fee	# Items	Total
1. Application Fee (non-refundable)	\$45.00	1	\$45.00	K.V.A. & H. P.			
Service				19. Units up to 20	\$6.00		
2. Through 200 Amp.	\$10.00			20. Units 21 to 50 K.V.A. or H.P.	\$10.00		
3. Over 200 Amp. thru 600 Amp.	\$15.00			21. Units 51 K.V.A. or H.P. & over	\$12.00		
4. Over 600 Amp. thru 800 Amp.	\$20.00			Fire Alarm Systems (not smoke detectors)			
5. Over 800 Amp. thru 1200 Amp.	\$25.00			22. Up to 10 devices	\$50.00		
6. Over 1200 Amp. (GFI only)	\$50.00			23. 11 to 20 devices	\$100.00		
7. Circuits	\$5.00			24. Over 20 devices	\$5.00 each		
8. Lighting Fixtures - per 25	\$6.00			Data / Telecommunication Outlets***			
9. Dishwasher	\$5.00			31. 1 - 19 devices	\$5.00 each		
10. Furnace - Unit Heater	\$5.00			32. 20 - 300 devices	\$100.00		
11. Electrical - Heating Units (baseboard)	\$4.00			33. Over 300 devices	\$300.00		
12. Power Outlets (ranges, dryers, etc.)	\$7.00			Energy Management Temp. Control			
Signs				25. Energy Retrofit - Temp. Control	\$45.00		
13. Unit	\$10.00			34. Circuits - Energy Management	\$5.00 each		
14. Letter	\$15.00			26. Conduit only or grounding only	\$45.00		
15. Neon - each 25 feet	\$20.00			Inspections			
16. Feeders-Bus Ducts, etc. - per 50'	\$6.00			27. Power Restoration Inspection	\$20.00		
17. Mobile Home Park Site*	\$6.00			28. Additional Inspection	\$45.00		
18. Recreational Vehicle Park Site	\$4.00			29. Final Inspection	\$45.00		
				30. Certification Fee**	\$20.00		

* See VII. Fee Clarification Item #17 above
 ** Required for all school and state-owned construction projects
 *** The Michigan Electrical Code Rules no longer contain requirements to permit and inspect data and telecommunications wiring; therefore, this section is voluntary.
 NOTE: Under special circumstances the City will assess an hourly fee for inspection services at a rate of \$45.00 per hour.

Total Fee (Must include the \$45.00 non-refundable application and final inspection fees)

IX. Instructions for Completing Application

Make checks payable to "Township of Alpena"

General: Electrical work shall not be started until the application for permit has been filed with the City of Alpena. All installations shall be in conformance with the Michigan Electrical Code. No work shall be concealed until it has been inspected. The telephone number for the inspector will be provided on the permit form. When ready for an inspection, call the inspector providing as much advance notice as possible. The inspector will need the job location and permit number.

Expiration of Permit: A permit remains valid as long as work is progressing and inspections are requested and conducted. A permit shall become invalid if the authorized work is not commenced within six months after issuance of the permit or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work. A PERMIT WILL BE CLOSED WHEN NO INSPECTIONS ARE REQUESTED AND CONDUCTED WITHIN SIX MONTHS OF THE DATE OF ISSUANCE OR THE DATE OF A PREVIOUS INSPECTION. CLOSED PERMITS CANNOT BE REFUNDED. THE CHARGE TO RE-OPEN A CLOSED PERMIT IS \$75.00

Where to Submit Application:
Township of Alpena
Building Department
 4385 US 23 North
 Alpena, MI 49707
 (989) 358-2737

VALIDATION AREA



JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

ALPENA TOWNSHIP

4385 US.23 NORTH ALPENA, MI 49707

989-358-2737

APPLICATION FOR PLAN REVIEW

FACILITY INFORMATION		
FACILITY NAME	STREET ADDRESS	
SUBMITTAL		
ORIGINAL PROJECT NO.	ADDENDUM NO.	
BUILDING DATA		
GROSS FLOOR AREA		
<input type="checkbox"/> NEW BUILDING	<input type="checkbox"/> ADDITION	<input type="checkbox"/> ALTERATION <input type="checkbox"/> REPAIR
CLASSIFICATION PER BUILDING CODE		
BUILDING USE GROUP	CONSTRUCTION TYPE	OCCUPANTS FLOOR AREA NO. OF FLOORS
FIRE SPRINKLERS		
<input type="checkbox"/> ENTIRE BUILDING	<input type="checkbox"/> LIMITED AREA	<input type="checkbox"/> NONE
PROJECT DESCRIPTION		
PLAN REVIEW REQUEST		
<input type="checkbox"/> BUILDING	<input type="checkbox"/> BARRIER FREE	<input type="checkbox"/> FOOTING/FOUNDATION <input type="checkbox"/> ENERGY <input type="checkbox"/> STRUCTURAL <input type="checkbox"/> ELECTRICAL <input type="checkbox"/> OTHER
BUILDING OWNER		
NAME	COMPLETE ADDRESS	PHONE NUMBER
PROJECT ENGINEER OR ARCHITECT		
NAME OF COMPANY	COMPLETE ADDRESS	PHONE NUMBER
NAME OF INDIVIDUAL	MICHIGAN LICENSE NUMBER	
APPLICANT (all correspondence will be sent to this address)		
NAME OF COMPANY	APPLICANT NAME	FEIN OR SSI
COMPLETE ADDRESS	PHONE NUMBER	
E-MAIL	FAX NUMBER	
APPLICANT SIGNATURE (MUST BE AN ORIGINAL SIGNATURE)	DATE	
Authority: 1972 PA 230 compliance is voluntary Penalty: Plans will not be reviewed		

Confidential information on this application is protected under the Federal Privacy Act

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

Township of Alpena

ALPENa TWP. CIVIC BLDG.
4385 U.S. 23 North
ALPENa, MICHIGAN 49707

Telephone: (989) 356-4024

125.1514 Construction board of appeals; creation; appointment, qualifications, and terms of members; appeal to board; hearing; decision; statement of reasons for decision; appeal to commission; copy of decision; additional powers or duties; procedures; conducting business at public meeting; notice; availability of certain writings to public.

Sec. 14. (1) A construction board of appeals for each governmental subdivision enforcing the code shall be created consisting of not less than 3 nor more than 7 members, as determined by the governing body of the governmental subdivision. Unless otherwise provided by local law or ordinance, the members of the board of appeals shall be appointed for 2-year terms by the chief executive officer of a city, village, or township and the chairperson of the county board of commissioners of a county. 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. A person may serve on the board of appeals of more than 1 governmental subdivision. If an enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to this act, or the code, 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 enforcing agency from whom the appeal was taken 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 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.

(2) This act does not prevent a governmental subdivision from granting its board of appeals additional powers or duties not inconsistent with this act, or from establishing procedures to be followed by its board of appeals insofar as the procedures do not conflict with this act. Except as otherwise provided by this act, or by other laws or ordinances, a board of appeals may by rules establish its own procedures.

(3) 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.

(4) 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.

History: 1972, Act 230, I.R.S. Jan. 1, 1973;—Am. 1977, Act 195, I.R.S. Nov. 17, 1977;—Am. 1978, Act 442, I.R.S. Oct. 9, 1978.

125.1515 Specific variance from code; requirements; breach of condition; permissible variance.

Sec. 15. (1) After a public hearing a 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:

(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 people of this state.

(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.

(2) A 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

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011

BUREAU OF CONSTRUCTION CODES
OFFICE OF ADMINISTRATIVE SERVICES

more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

History: 1972, Act 230, Eff. Jan. 1, 1973.

125.1516 Appeal to commission; time; hearing; quorum; effect of decision; copy of decision and statement of reasons; record of decisions; public inspection; referral of certain appeals to appropriate board; review of board's decision; petition.

Sec. 16. (1) An interested person, or the interested person's authorized agent, may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency 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. The hearing of an appeal based on the denial of a request for a variance by a board of appeals is within the sole discretion of the commission. If deciding an appeal, the commission may act either as a whole or by a panel of 3 or more of the commission members designated by the commission's chairman to hear and decide the appeal. A majority of a panel constitutes a quorum and a decision by a panel requires concurrence of at least a majority of the panel's members. If an appeal has been presented to the commission within the time prescribed, the appeal shall be heard de novo by the commission. The commission may affirm, modify, or reverse a decision of the board of appeals or the enforcing agency. Except if modified or reversed by a court of competent jurisdiction, a decision of the commission made pursuant to this section is binding on the applicant and the affected board of appeals and enforcing agency. An appeal to the commission shall be decided within 30 days after receipt of the appeal by the commission. A copy of the decision and a statement of reasons for the decision, shall be sent to the applicant and filed with the affected board of appeals and enforcing agency within 5 business days after the making of the decision. A record of decisions made by the commission pursuant to this section, properly indexed, shall be kept in the office of the commission, and be open to public inspection during business hours in compliance with Act No. 442 of the Public Acts of 1976.

(2) Notwithstanding subsection (1), the executive director of the commission shall refer an appeal to the commission pursuant to subsection (1) which in the executive director's judgment relates principally to a plumbing, electrical, or barrier free design matter to the appropriate board. The board shall hear and decide the appeal in the same manner as an appeal is heard and decided by the commission pursuant to section 16, except that a board shall meet as a whole and not in a panel. A person aggrieved by a decision of a board on any appeal pursuant to this subsection may petition the commission to review the decision. The commission shall act on the petition within 5 business days after receipt, and may grant the petition at the commission's discretion except that the commission shall grant the petition if it appears that the appeal involves a question of major significance to the people of this state and that the case of the appellant has substantial merit. If the commission grants the petition, the commission acting as a whole shall review the decision in accordance with a procedure to be established by the commission's rules.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1974, Act 180, Imd. Eff. June 27, 1974;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978.
Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1517 Effect of appeal on orders, determinations, decisions, and actions.

Sec. 17. An appeal to a board of appeals or the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, does not stay a stop construction order issued by an enforcing agency or prevent an enforcing agency from seeking an order in a court of competent jurisdiction enjoining the violation of a stop construction order. In other cases, an appeal to a board of appeals, or to the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, shall act as a stay upon an order, determination, decision or action appealed from, unless the enforcing agency establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: For provisions of Act 306 of 1969, referred to in this section, see § 24.201 et seq.

125.1518 Filing claim of appeal or petition to review.

Sec. 18. An appeal pursuant to Act No. 306 of the Public Acts of 1969, as amended, from a decision of the commission or a board, following an appeal from a decision of a board of appeals or enforcing agency shall be made by a claim of appeal filed with the court of appeals. An appeal pursuant to that act from any other decision of the commission or of a board shall be by petition to review filed with the Ingham county circuit court.

RECEIVED
DEPT. OF LABOR &
ECONOMIC GROWTH

JUN 20 2011