

ARTICLE 1

ADMINISTRATION AND ENFORCEMENT

Section 1.01 Short Title.

This Ordinance shall be known as the "Quincy Township Zoning Ordinance". Within the following text it may be referred to as the "Ordinance" or the "Zoning Ordinance."

Section 1.02 Intent.

The intent of this Ordinance is to promote the public health, safety, morals, and general welfare of Quincy Township; protecting the character and stability of agricultural areas; to encourage the use of lands in accordance with their character and adaptability; and to limit the improper use of land; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision of water supply and sewage disposal, education, recreation and other public improvements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, and with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of natural resources, and the general and appropriate trend and character of land, building, and population development, as studied and recommended within the Master Plan adopted by the Quincy Township Planning Commission and endorsed by the Quincy Township Board. The continued administration of this Ordinance, amendments to this Ordinance, and other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), hereinafter referred to as the "Zoning Act". (Amended 2007).

Section 1.03 Scope.

No structure shall be erected, converted, enlarged, reconstructed or altered, nor shall any structure or land be used, occupied, designed or arranged for any purpose other than as is permitted in the district where the structure or land is located. No yard or open space surrounding any structure shall be encroached upon or reduced in any manner, except in conformity with the regulations established for the district where such structure is located.

Section 1.04 Withholding of Approval.

The Township may withhold approval of any use, site plan, planned development, variance, rezoning, text amendment, or other approval required by this Ordinance where violations of this Ordinance or other Township ordinances are determined to exist, or where permits or approvals by outside agencies are required and have not been issued.

Section 1.05 Schedule of Fees, Charges and Expenses.

The Township Board shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for matters pertaining to this Ordinance. The schedule of fees shall be on file at the Township Hall. The schedule of fees, charges, and expenses may be altered or amended by resolution of the Township Board.

- A. **Necessary fees and expenses.** Fees, charges, and expenses shall be assessed as part of the application for review of matters pertaining to this Ordinance to defray expenses incurred in processing such application.
- B. **Non-refundable.** Fees, charges, and expenses assessed as part of an application for review of matters pertaining to this Ordinance are non-refundable.
- C. **Required upon application.** No action shall be taken on any application or appeal until the application is accurate and complete, and all applicable fees have been paid in full.
- D. **Fees in Escrow for Professional Reviews.** Any application for matters requiring approval under this Ordinance may also require the deposit of fees to be held in escrow in the name of the applicant. For example, an escrow fee shall be required for any project that requires a traffic impact study or an impact assessment under Section 1.12. An escrow fee may be required by the Township Board, Planning Commission, or Zoning Board of Appeals where professional input and review is desired before a decision is made about any project that may create an identifiable and potentially negative impact on public roads, other infrastructure or services or adjacent properties.
 - 1. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the Township values to review the proposed project. Professional review will result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and identifying any problems that may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the Township and a copy of the statement of expenses for the professional services rendered, if requested.
 - 2. No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Township Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals. Any unused fee collected in escrow shall be returned to the applicant within sixty (60) days of final Township action on the applicant's request, or within sixty (60) days of withdraw of the request by the applicant.
 - 3. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning permit or other approval issued by the Township in response to the applicant's request. Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

Section 1.06 Performance Guarantees.

To ensure compliance with this Ordinance and faithful completion of required improvements, an approving authority (Planning Commission or Township Board, as appropriate) may require that the applicant deposit with the Township Treasurer a financial guarantee to cover the cost of all improvements required as a condition of such approval. Such guarantees shall be subject to the following:

- A. "Improvements" shall be limited to those features, upgrades and enhancements associated with the project considered necessary by the approving authority to protect natural resources, or the health, safety, and welfare of residents of the Township and future users of the project including, but not limited to roadways, lighting, utilities, sidewalks, landscaping and screening, and drainage.

- B. The form of the deposit shall be cash, certified check, irrevocable bank letter of credit or other surety form acceptable to the Township Board. The amount of the guarantee shall be determined by the Zoning Administrator and shall cover the full cost of any uncompleted site plan improvements and inspections. If the improvements are planned for the following construction season, any necessary adjustments in anticipated costs shall be made to the amount of the guarantee. The performance guarantee shall be deposited prior to the start of work or issuance of any permits.
- C. Performance guarantees shall continue until such time as the Township notifies the surety that the conditions imposed upon the development have been met. The approving authority shall not release the performance guarantee until the Zoning Administrator and approving authority are satisfied that the conditions for such action have been met.
- D. As work progresses, the Township may rebate cash deposits in reasonable proportion to the ratio of work completed on the required improvements, provided that ten percent (10%) of the guarantee shall be retained by the Township pending a successful final inspection by the Zoning Administrator of all required improvements.

Section 1.07 Permits.

The Zoning Administrator shall have the authority to grant zoning permits, and to make inspections of structures or sites necessary to carry out its duties in the enforcement of this Ordinance.

- A. **Zoning permits.** A zoning permit is required to determine compliance with use, area, height and bulk regulations; setbacks; and other requirements and conditions of this Ordinance.
- B. **Permit issuance.** Issuance of permits under this Ordinance shall be subject to the following:
 - 1. It shall be unlawful for the Zoning Administrator to approve any plans, or to issue any permits until he has inspected such plans in detail and found them to conform with this Ordinance.
 - 2. Any fees, charges, and expenses paid by the applicant shall be nonrefundable.
 - 3. No permit shall be issued until the Zoning Administrator has received the following information, where applicable:
 - a. Notification of final approval of a site plan, special approval use or other necessary approval from the Planning Commission and/or Township Board, including any conditions of approval.
 - b. Proof of acquisition of all other applicable outside agency permits, including the Branch County Health Department, at the discretion of the Zoning Administrator.
 - 4. Whenever the structures, lands and uses described in a full and complete application are determined to be in full and complete conformity with the provisions of this Ordinance and other Township ordinances, it shall be the duty of the Zoning Administrator to issue a permit within ten (10) business days after the receipt of such application.
 - 5. All permits shall be conspicuously posted upon the premises.

6. In all cases where the Zoning Administrator denies approval of a permit, the cause and reasons for such refusal shall be noted on the application and provided to the applicant upon request.

C. **Plans and specifications.** Applications for permits required by this Section shall be filed with the Zoning Administrator. Each application shall be accompanied by a written explanation of the proposed improvements. Application materials shall include sufficient detail for the Zoning Administrator to determine whether the proposed improvements conform with the provisions of this Ordinance. All applications for zoning permits shall be accompanied by plans and specifications drawn to scale and showing the following:

1. The shape, location, dimensions address and tax identification number of the lot, and the name and address of all persons having an ownership interest with a written statement indicating knowledge of and agreement with the proposal.
2. The shape, size and location of all structures to be erected, altered or moved, and any existing structures on the parcel or adjacent parcels.
3. The existing and proposed use of the lot and of all such structures upon it.
4. All information necessary for determining compliance with this Ordinance.

D. **Duration of permit.** A permit issued by the Zoning Administrator shall expire six (6) months following the date of issuance. If work is not commenced at the conclusion of the six (6) month period, the applicant may apply for a 90-day extension from the Zoning Administrator, which shall begin upon expiration of the original permit. The applicant must apply for the extension no more than 10 days after the permit expires. The Zoning Administrator may grant one (1) such extension per permit

To be granted an extension, the applicant must demonstrate that progress has been made, and that work will continue diligently to conclusion. An acceptable explanation as to why the original construction period was insufficient must also be provided. (Ord. 06-04, 11/3/2004)

E. **Revocation of permit.** The applicant shall be notified in writing of the revocation of a permit within ten (10) working days of such action by the Zoning Administrator. The reasons for the action shall be provided in the written notice. Any permit issued under the provisions of this Ordinance may be revoked by the Zoning Administrator if the permit holder has:

1. Made false or fraudulent statement in the application or exercise of a permit.
2. Violated, or failed to satisfy, any of the provisions of this Ordinance or any condition of approval.
3. Performed work or used materials that do not conform to the approved plans or specifications.
4. Caused, created or maintained, in the exercise of a permit, a nuisance or danger to the public health, safety or welfare.

F. **Zoning inspections.** It shall be the duty of the holder of every permit to notify the Zoning Administrator of the time when the work subject to the permit is ready for inspection. It shall be the duty of the Zoning Administrator to inspect work performed under an approved permit to verify compliance with the provisions of this Ordinance.

Section 1.08 Buildings Under Construction.

Any building or structure for which a permit has been issued and permitted work has been started prior to the effective date of this Ordinance may be completed and used in accordance with the approved adoption or amendment of plans and permits. Any such permit for a use that would become nonconforming after the effective date of this Ordinance shall not be renewed if permitted work has not commenced within three hundred sixty-five (365) days from the date of issuance. Nothing in this Ordinance shall be deemed to require any change in the plans, construction or design use of any structure upon which actual construction was lawfully begun prior to the adoption or amendment of this Ordinance, and has been diligently carried on to completion.

Section 1.09 Buildings To Be Moved.

Any structure which has been wholly or partially erected on any premises within or outside the Quincy Township shall not be moved to or placed upon any premises in the Township unless a zoning permit for the structure has been secured from the Zoning Administrator. The structure shall fully conform to all the provisions of this Ordinance in the same manner as a new structure.

Section 1.10 Restoring Unsafe Buildings.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any structure declared unsafe by the Zoning Administrator, except as specified in Article 21 (Nonconformities).

Section 1.11 Public Hearing and Notice Procedures.

All applications for development approval requiring a public hearing (special uses, variances and interpretations by the Zoning Board of Appeals, amendments to the Township Zoning Ordinance, etc.) shall comply with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and with other provisions of this Ordinance.

- A. **Responsibility.** When the provisions of this Ordinance require that a notice of public hearing be published, the Quincy Township Clerk shall be responsible for preparing the content of the notice and publishing it in a newspaper of general circulation in Quincy Township and mailed or delivered as provided in this Section.
- B. **Content.** All mail, personal and newspaper notices for public hearings shall describe the nature of the request; identify whether the request is for a rezoning, text amendment, special land use, planned unit development, appeal, ordinance interpretation, or other purpose and indicate the property that is the subject of the request. The notice shall include a listing of all property that is the subject of the request and shall include the a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel number or including a map showing the location of the subject property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning or when the request is for an ordinance interpretation that involves no specific property.

The notice shall indicate when and where the request will be considered, including the date, time and place. It shall also include a statement of where and when written comments will be received, together with a statement that the public may appear at the hearing with counsel. The notice shall also include information as to how handicapped access will be provided if the facility is not handicapped accessible.

C. When the provisions of this Ordinance require that a personal or mailed notice be provided, the notice shall be provided to:

1. The owners of property for the approval being considered and the applicant if different than the owner(s) of the property;
2. Except for rezoning requests that involve eleven (11) or more adjacent properties, an ordinance interpretation that does not involve a specific property, or a text amendment that does not involve a specific property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the subject property and all occupants of said properties located within three hundred (300) feet of the boundary of the subject property, regardless of whether the property is located in Quincy Township. If the name of an occupant is not known, the term occupant is may be used in making the notification. The notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned by or leased by different individuals, partnerships, businesses or organizations, one (1) occupant shall receive the notice.
3. All governmental organizations, public utilities, railroads, neighborhood associations and other persons that have registered to receive a notice. (see Subsection F below)
4. Other governmental units or infrastructure agencies within one thousand (1000) feet of the subject property.
5. Notice shall also be provided to members of the body charged with conducting the hearing, the Zoning Administrator, and any other appropriate Township officials.
6. The Township may, in its discretion, post the notice at other public accessible locations, including but not limited to the Township Hall, public libraries and the Internet. The Township may also deliver the notice to additional persons, including those located more than the three hundred (300) feet from the subject property, provided that the applicant is not required to pay for expenses associated with the additional mailings.

D. Notice shall be considered mailed by its deposit in the United States mail, first class, properly addressed and postage paid. The Township Clerk shall prepare a list of property owners and registrants (see Section F below) to whom the notice was mailed, as well as of anyone to whom the personal notice was delivered.

E. Unless otherwise provided by this Ordinance, notice of a public hearing shall be provided as follows:

1. For a public hearing on an application for a rezoning, text amendment, special use, planned unit development, variance, appeal or ordinance interpretation, not less than fifteen (15) days before the public hearing at which the application will be considered for approval.
2. For any other public hearings required by this Ordinance.

F. **Registration to Receive Notice by Mail:**

1. **General.** Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval pursuant to Section 1.11.C, or written notice of all applications

for development approval within the zoning district in which they are located. The Township Clerk and/or Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

2. **Requirements.** The requesting party must provide the Township Clerk information on an official form to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this Section.

G. **Pre-hearing examination.** Any person may examine the application and documents on file with the Township pertaining to the subject and purpose of the hearing. Any person shall be entitled to copies of such application and documents, upon reasonable request and payment of fees established by the Township Board to cover the cost of making such copies.

H. **Right to submit written statements.** Any person may submit written comments about the subject and purpose of a hearing prior to the hearing date. Such statements shall be made a part of the public record of the hearing.

I. **Timeframe for hearings.** The public hearing shall be scheduled for a date not more than sixty (60) days after receipt of a complete and accurate application by the body charged with conducting the hearing, unless the applicant shall agree to some later time.

J. **Rights of all persons.** Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.

K. **Adjournment.** The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing to a reasonable and fixed future date, time and place for the purpose of giving further notice, or for other reasons that the body finds to be sufficient.

L. **Governance.** All other matters pertaining to the conduct of hearings shall be governed by applicable provisions of this Ordinance, and the rules and procedures adopted by the body conducting the hearing.

(Amended 2007).

Section 1.12 Impact Assessments.

The applicant for a rezoning, planned development, special land use or other matter specified in this Ordinance, or a use or development determined by the Planning Commission to have significant potential impacts upon the environment, traffic, infrastructure or demands for public services, may be required to provide an impact assessment. The Township reserves the right to hire experienced professionals to evaluate the impact assessment and, prepare additional analyses, with the cost borne by the applicant. The minimum contents of this impact assessment shall be the following:

A. **Qualifications of preparer.** Name(s) and address(es) of person(s) or firm(s) responsible for preparation of the impact assessment, and a brief statement of their qualifications.

B. **Site description.** An area plan or aerial photograph illustrating the entire site and nearby properties, overlaid with illustrations of adjacent land uses, zoning, public roads, utilities, significant woodlands, soil types, 100-year floodplains, drains and general topography. The area described shall be within one-quarter ($\frac{1}{4}$) mile for sites up to twenty (20) acres, and within one (1) mile radius for larger sites.

- C. **Conceptual site plan.** Illustration of the general layout and phasing of proposed uses upon which the impact analysis is based.
- D. **Land use impacts.** Description of the types of proposed uses and other man made facilities, including any project phasing, and an indication of how any proposed uses conform or conflict with existing and planned development patterns. A description shall be provided of any increases in light, noise or air pollution that could negatively impact adjacent properties.
- E. **Environmental impact.** Description of any expected environmental impacts on site and area natural features. Conceptual mitigation or replacement measures under consideration shall be described. The study shall also describe general measures to control soil erosion and sedimentation during and after construction. Documentation by a qualified wetland specialist shall be required wherever regulated wetland may be impacted by the proposed project.
- F. **Impact on public facilities and services.** Describe the number of expected employees, visitors or residents and the anticipated impact on police and fire protection. In particular, describe the relationship of the use to area fire stations and the need for any new facilities or equipment. Letters from the appropriate agencies should be provided.
- G. **Utility impacts.** Describe proposed water and sanitary sewer facilities, including any improvements or off-site extensions needed to serve the long-range development on the site. For sites served with sanitary sewer and public water, general calculations for water flows and water demands shall be provided in comparison with sewer line capacity.
- H. **Drainage.** Describe conceptual plans to control drainage and any significant changes from existing drainage patterns. If wetlands are to be used as storm water basins, methods to control fertilizers and filter runoff shall be identified. Correspondence from the Branch County Drain Commissioner shall be attached indicating their concerns and suggestions.
- I. **Storage and handling of waste and hazardous materials.** Methods of on- and off-site disposal of solid waste shall be identified. The information shall describe the type of hazardous substances expected to be used, sorted or disposed of on the site; general location within the site; and method of containment. A Pollution Incident Prevention Plan (PIPP), and documentation of compliance with federal and state requirements, shall be submitted as appropriate.
- J. **Traffic impacts.** A traffic impact study may be required. The Township may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the application per Section 1.05 (Schedule of Fees, Charges, and Expenses). At a minimum, the study shall include the following:
 - i. Analysis of existing traffic conditions and/or site restrictions using current data.
 - ii. Projected trip generation at the subject site or along the subject service drive based on the most recent edition of the Institute of Transportation Engineers Trip Generation Manual. The Township may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
 - iii. Illustrations of current and proposed turning movements at aces points, including identification of the impact of the development and its proposed access on the operation of abutting streets. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual published by Transportation Research Board, and shall be provided in an appendix to the traffic impact study.

- iv. Description of the internal vehicular circulation and parking systems for passenger vehicle and delivery trucks, as well as the circulation system for pedestrians, bicycles, and transit users.
- v. Justification of need, including statements describing how the additional access will meet the intent of this Section, will be consistent with the Township's Master Plan and any sub-area or corridor plans, will not compromise public safety and will not reduce capacity of traffic operations along the roadway.
- vi. Qualifications and documented experience of the author, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least three (3) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with adequate experience in traffic engineering.

Section 1.13 Compliance Required.

No structure, or part thereof, shall be constructed, altered or maintained, and no new use of any structure or land shall be established, changed or maintained, except in conformity with this Ordinance.

Section 1.14 Enforcement.

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or other authorized agents of the Township. The Zoning Administrator shall investigate all complaints of Ordinance violations:

- A. Upon determining that a violation has occurred, the Zoning Administrator shall be authorized to inform the violator of the violation and any necessary actions to resolve the violation, and to take such actions as deemed necessary to resolve the violation. Where necessary, written notice of the violation shall be served on the violator stating:
 - 1. The nature of the violation.
 - 2. The actions or changes required to resolve the violation.
 - 3. The time by which the violation must be remedied.
 - 4. That further enforcement action may be taken by the Township to remedy the violation if it is not remedied within the time specified.
- B. If the violation is not remedied by the time specified in the notice, the Zoning Administrator shall use all available means to remedy the violation, including, but not limited to citations, or the pursuit of Circuit Court approval to remedy the violation at the expense of the property owner. All expenses related to such enforcement actions may be placed upon the tax rolls for the property unless immediately reimbursed by the property owner.

Section 1.15 Violation and Penalties.

- A. **Duty of person in charge.** It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the establishment of any use or the erecting, altering, changing, or remodeling of any structure to see that proper permits have been granted and that such work is not in violation of this Ordinance before undertaking such work. Architects, builders, contractors or other persons performing such work without a permit or in violation of

this Ordinance shall be deemed responsible for such violations to the same extent as the owner of the property, and shall be subject to the penalties herein prescribed for such violation.

B. **Fines, compliance and nuisance abatement.** The violation of any provision of this Zoning Ordinance by any firm, corporation, person or persons, or anyone acting on behalf of said person, persons, firm or corporation, is a municipal civil infraction that shall result in the assessment of a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) per infraction, plus costs and other sanctions ordered by the court. Each day that a violation is permitted to exist shall constitute a separate offense.

1. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.
2. Any violation of this Ordinance is a nuisance *per se* and may be abated by the Circuit Court through injunctive relief.

C. The Zoning Administrator and police officers serving the Quincy Township shall be authorized to issue civil infractions for violations of this Ordinance. The Zoning Administrator or Township Board may authorize additional persons as necessary to issue civil infractions for violations of this Ordinance.