

ARTICLE 10: ADMINISTRATION AND ENFORCEMENT OF ORDINANCE

Section 10.0 – Zoning Administrator

- A. The provision of this Ordinance shall be administered in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
- B. The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board of Trustees for such term and subject to such conditions and at such rate of compensation as said Board shall determine is reasonable. The Township Zoning Administrator shall have the power of a police officer in the enforcement of this Ordinance. The Zoning Officer may be assisted by any other Township employees and officials as the Township Board may delegate to enforce the provisions of this Ordinance. The duty of enforcement thereof shall rest with such administrative officials as shall be authorized therein by law, and such administrative officials shall for the purpose of the Ordinance have the power of public officers.
- C. The Zoning Administrator shall have the power to grant Zoning Permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. The Zoning Administrator shall not approve any plans or issue any Permits for excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.
- D. The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.
- E. The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said Permit.

Section 10.1 – Zoning Permit

- A. No building or structure shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any use subject to the provisions of this Ordinance be commenced until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise provided for in this Ordinance. No permit shall be issued except in strict

conformity with the provisions of this Ordinance unless the Zoning Administrator receives a written order from the Zoning Board of Appeals. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. Exempted from the permit requirements are exterior alterations and ordinary maintenance repairs that do not require a building, mechanical, electrical or plumbing permit.

- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
 - 1. A site plan or plot plan in duplicate, in a scale sufficient to clearly detail and which contains all of the information required in **Article 7**.
 - 2. Properties smaller than two (2) acres in size may be required to submit a legal survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
 - 3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator. If copies of permits or waivers of permits cannot be obtained, then the applicant shall show evidence that all permits required by other agencies have been filed for.
 - 4. Such other information as may be required to determine compliance with this Ordinance.
- C. One copy of the application shall be returned to the applicant by the Zoning Administrator, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the application, similarly marked, shall be retained by the Zoning Administrator, maintained on file and available to the public for inspection upon request during normal business hours. In all cases when the Zoning Administrator shall refuse to issue a permit, he shall state such refusal in writing with the cause and reasons for said refusal.
- D. A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits which are contingent upon the issuance of a Zoning Permit.

- E. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator's use prior to the issuance of the Zoning Permit. The Zoning Administrator has the right to waive this requirement if the staking out of boundary lines is not pertinent to the issuance of the Zoning Permit.
- F. The Zoning Permit will expire after one (1) year from date of issuance for any Zoning Permit under which no construction has occurred or no substantial construction has been done in the furtherance of the Zoning Permit. Said permit shall be canceled by the Zoning Administrator and written notice thereof shall be given to the person(s) affected. Said notice shall state that work as described in the canceled permit shall not proceed until a new permit has been obtained.
- G. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- H. No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board.
- I. Upon issuance of the Zoning Permit, a copy of the permit and the application, including any drawings shall be transmitted to the Township Assessor.
- J. Conformance with Approved Plans: Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications. Any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.

Section 10.2 - Conditions

The Alcona Township Planning Commission and Alcona Township Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under its respective jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 10.3 – Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, and the other provisions of this Section with regard to public notification.

- A. **Published Notice:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Township Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Alcona Township and mailed or delivered as provided in this Section.
- B. **Content:** All mail, personal and newspaper notices for public hearings shall:
 - 1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.
 - 2. Location: Indicate the property that is subject to the request. The notice shall include 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 identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the 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 not involving a specific property.
 - 3. When and where the request will be considered: indicate the date, time and place of the public hearing(s).

4. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. Disabled access: Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

C. Personal and Mailed Notice

1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.
 - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within Alcona Township. If the name of the occupant is not known, the term "occupant" may be used in making notification. 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 or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to **§10.4**.
 - d. Other governmental units or infrastructure agencies within one (1) mile of the property involved.
2. Notice Deemed Given: Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid. The Planning Commission Secretary shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

D. **Timing of Notice:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

Section 10.4 – Registration to Receive Notice by Mail

- A. **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 **§10.3(C)(1)(c)** or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall be responsible for providing this notification, as established by the Township Board.
- B. **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.

Section 10.5 – Rehearing Process

- A. **Final Decisions:** Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
 3. The Township attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

- B. **Rehearing Procedure:** A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
 4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 10.6 - Fees

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
1. Zoning Permits
 2. Special Land Use permits
 3. Ordinance interpretations by the Zoning Board of Appeals including appeals of

administrative decisions or request for interpretation. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.

4. Requests for variances from the Zoning Board of Appeals.
 5. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 6. Site plan reviews.
 7. Requests by the applicant for a special meeting of the Alcona Township Planning Commission.
 8. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by Township staff, and per diem paid to the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.
- C. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into

escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete thereby justifying the denial of the application. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision.

Section 10.7 – Performance Guarantee

In connection with the construction of improvements through site plan approval, Special Land Use approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements;
- B. Another one-third (1/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

Section 10.8 – Violations and Penalties

A. Inspection

The Zoning Administrator shall have the responsibility to investigate each alleged violation and shall have the right to inspect any property for which a Zoning Permit has been issued to ensure compliance with the plans and conditions of the Zoning Permit or approved site plan.

B. Violation Notification

If the Zoning **Administrator** shall find that any of the provisions of this Ordinance are being violated, he shall within ten (10) days notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures or of discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

C. Penalties

1. Any person, firm or corporation, including, but not by way of limitation, builders and contractors who shall violate, neglect or refuse to comply with or who resists the enforcement of any of the provisions of this Ordinance or conditions of the Planning Commission, Zoning Board of Appeals or Township Board adopted pursuant thereof, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine and costs of prosecution, or by being imprisoned in the County Jail; both such fine and imprisonment at the discretion of the Court, but not to exceed \$100.00 fine or 90 days in jail. Each day that a violation is permitted to exist shall constitute a separate offense.

The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. Uses of land and dwellings, buildings or structures, including tents, trailer coaches and mobile homes used, erected, altered, razed or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The Court may order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach, mobile home or land may be adjusted guilty or maintaining a nuisance per se, and same may be abated by order of any court of competent jurisdiction.

2. The Township Zoning Administrator is hereby designated as the authorized Township official to notify alleged violators of this Ordinance of the violation. The Township Board may also designate from time to time other officials to issue violation notices on behalf of the Township.
3. In addition to or in lieu of enforcing this Ordinance as a misdemeanor, the Township may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.

D. Stop Work Order

1. If construction or land uses are being undertaken contrary to a Zoning Permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance. A stop work order may be issued when the Zoning Administrator finds that any of the following conditions exists:
 - a. Work is being done or has been done without a Zoning Permit;
 - b. Work is being done beyond the scope of the issued Zoning Permit;
 - c. Work is being done which does not match approved plans;
 - d. A permittee fails to comply with any of the terms, conditions, or requirements of the applicable Zoning Permit or a condition of the permit; or
 - e. A permittee fails to pay any fees required by this Ordinance or any other applicable ordinance.
2. A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing officer or agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or Ordinance, and does not prevent civil prosecution for failure to obey the order.