

ORDINANCE NO. 2013-1
ESTABLISHMENT OF PLANNING COMMISSION

An Ordinance to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Ely Township Planning Commission; provide for the composition of that Planning Commission; provide for the powers, duties and limitations of that Planning Commission; and repeal any Ordinance or parts of Ordinances or Resolutions in conflict with this Ordinance.

THE TOWNSHIP OF ELY, MARQUETTE COUNTY, MICHIGAN ORDAINS:

SECTION 1. Scope, Purpose and Intent

- A. This Ordinance is adopted pursuant to the authority granted the Township Board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801. et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a Planning Commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this Ordinance and any future amendments to this Ordinance.
- B. The purpose of this Ordinance is to provide that the Ely Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Ely Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., to establish the appointments, terms and membership of the Planning Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

SECTION 2. Establishment

- A. The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Ely Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The Ely Township Planning Commission shall have five (5) members. Members of the Ely Township Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning enabling Act, Public Act 33 of 2008, MCL 125.3801. et seq.

SECTION 3. Membership, Appointments and Terms

- A. The Commission shall consist of five (5) members. The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member. The Planning Commission members, other than an ex officio member, shall serve for terms of three (3) years each. A Planning Commission member shall hold office until his or her successor is appointed.
- B. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. Planning Commission members shall be qualified electors of the Township. To be qualified to be a member and remain a member of the Commission, the individual shall meet the following qualifications:
 - 1. Shall be a qualified elector of Ely Township;
 - 2. Shall not hold any elected office or employment with the local unit government, unless an ex officio member;
 - 3. Shall not be declared candidate for any political office, except this condition shall not apply to the Ely Township Board representative to the Commission;
 - 4. After an individuals' first appointment and before reappointment shall have attended training for Commission members, pursuant to Section 4 of this Ordinance;
 - 5. Shall meet the conditions provided for each individual member in Section 3C, 3D, 3E and 3F of this Ordinance.
- C. Members shall be appointed for three (3) year terms. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for and original appointment such that, as nearly as possible, the terms of one-third (1/3) of all commission members continue to expire each year.
- D. One member of the Township Board shall be appointed to the Planning Commission as an ex officio member. An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall be a one (1) year appointment.
- E. The membership shall be representative of the important segments of the community, such as the economic, governmental, education and social development of Ely Township, in accordance with the major interests as they exist in Ely Township, as follows:
 - 1. Agriculture
 - 2. Natural Resources
 - 3. Recreation
 - 4. Education
 - 5. Public Health
 - 6. Government
 - 7. Transportation
 - 8. Industry
 - 9. Commerce

- F. The membership shall also be representative of the entire geography of Ely Township to the extent practicable, and as a secondary consideration to the representation of the major interest.

SECTION 4. Training

- A. Appointed members of the Commission shall attend educational programs designed for training members of Michigan Planning Commissions if the adopted Ely Township Board budget for that fiscal year includes fund to pay for the tuition, registration and travel expenses for the training. Nothing in this paragraph shall deem a member who has not had training from finishing his/her term of office unless the member resigns or is removed by action of the Ely Township Board. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend the training.

SECTION 5. Removal

- A. The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meeting shall be considered nonfeasance in office.

SECTION 6. Conflict of Interest

- A. Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this Ordinance constitutes malfeasance in office.
- B. For the purposes of this section, conflict of interest is defined as, and a Planning Commission member shall declare a conflict of interest and abstain from participating in Planning Commission deliberations and voting on a request, when:
 - 1. An immediate family member is involved in any request for which the Planning Commission is asked to make a decision. "Immediate family member" is defined as an individual's father, mother, son, daughter, brother, son and spouse and a relative of any degree residing in the same household as that individual;
 - 2. The Planning Commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;

3. The Planning Commission member owns or has a financial interest in a neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application of proposed development, as required by the Zoning Ordinance or other applicable Ordinance;
4. There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the Planning Commission.

SECTION 7. Compensation

- A. The Planning Commission members may be compensated for their services as provided by the Township Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance a conferences, workshops, educational and training programs and meetings.

SECTION 8. Offices and Committees

- A. The Planning Commission shall elect a chairperson, vice-chairperson and a secretary from its' members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be one (1) year, with opportunity for reelection as specified in the Planning Commission by-laws. The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

SECTION 9. By-laws, Meetings and Records

- A. The Planning Commission shall adopt by-laws for the transaction of business. The Planning Commission shall hold at least four (4) regular meetings each year, and shall by determine the time and place of the meetings. Unless otherwise provided in the Planning Commission's by-laws, a special meeting of the Planning Commission may be called by the chairperson or by two (2) other members upon written request to the secretary. Unless the by-laws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least forty-eight (48) hours before the meeting.
- B. The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meeting Act, Public Act 267 of 1976, MCL 15.261, et seq. The Planning Commission shall keep a public record of its resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of or retained by a Planning Commission in the performance of an official function shall be made available to the public in

compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

SECTION 10. Authority to Make Master Plan

- A. Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801. et seq., and other applicable planning statutes, the Planning Commission shall make a Master Plan as a guide for development within the Township's planning jurisdiction. Final authority to approve a Master Plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve or reject the Master Plan.
- B. Unless rescinded by the Township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

SECTION 11. Preparation of Capital Improvement Program

- A. To further the desirable future development of the Township under the Master Plan, the Planning Commission, after the Master Plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following six (6) year period.

SECTION 12. Zoning Powers

The Township Board hereby confirms the transfer of all powers, duties and responsibilities provided for Zoning Boards or Zoning Commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101. et seq.; or other applicable Zoning statutes to the Ely Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. Any existing Zoning Ordinance shall remain in full force and effect except as otherwise amended or repealed by the Township Board.

SECTION 13. Severability

- A. The provisions of this Ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the Ordinance, which shall continue in full force and effect.

SECTION 14. Repeal

- A. All Ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 15. Approval, Ratification and Recommendation

All official action taken by the Ely Township Board preceding the Planning Commission created by this Ordinance are hereby approved, ratified and reconfirmed. any project, review or process taking place at the effective date of this Ordinance shall continue with the Commission created by this Ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous Ely Township Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

SECTION 16. Effective Date

This Ordinance shall take effect on the date of its publication.

Motion made by Board Member Hosang, seconded by Board Member Wing that it be resolved, the Ely Township does hereby adopt this Ordinance Establishing a Planning Commission.

Ayes: Hosang, Wing, Schultz, Grund, Pepin

Nays: None

Motion carried.

Adopted at a Regular Board meeting of the Ely Township Board on March 20, 2013.

Kim D. Wing
Ely Township Clerk