

ARTICLE 1

ADMINISTRATION AND ENFORCEMENT

Section 1.01 Short Title.

This Ordinance shall be known and may be cited as the Saline Township Zoning Ordinance, and shall be referred to herein as "this Ordinance."

Section 1.02 Enabling Authority.

This Ordinance has been prepared for and adopted by the Township Board of Saline Township under the authority of the Michigan Zoning Enabling Act, following compliance with all procedures required by this Act.

Section 1.03 Intent and Purpose.

This Ordinance has been prepared and adopted for the purpose of providing standards and regulations for land development, for the use of land and structures, and for all other purposes described in Section 201 of the Michigan Zoning Enabling Act. This Ordinance is based on the Township's General Development Plan, and is intended to carry out the objectives of the plan. This Ordinance has further been established for the purposes of:

1. Promoting and protecting the public health, safety, and general welfare;
2. Protecting the character and stability of agricultural, residential, commercial, and industrial areas of the Township; and promoting the orderly and beneficial development of such areas;
3. Regulating the intensity of land use; and determining lot areas and open spaces necessary to surround buildings to provide adequate light and air;
4. Lessening and minimizing congestion and conflicts on public roads and highways;
5. Providing for the needs of agriculture, recreation, residences, commerce, and industry in future growth;
6. Providing adequate light, air, privacy and convenience of access to property, and promoting healthful surroundings for family life in residential and rural areas;
7. Fixing reasonable standards to which structures and other site improvements shall conform, and prohibiting uses or structures that are incompatible with the character of development or the uses or structures permitted in specific districts;

8. Protecting against fire, explosion, noxious fumes, odors, heat, dust, smoke, light pollution, glare, noise, vibration, radioactivity, and other nuisances and hazards;
9. Preventing the overcrowding of land and undue concentration of buildings so far as is possible and appropriate in each zoning district by regulating the use, height, location, and bulk of buildings in relation to the surrounding land; and
10. Providing for the completion, restoration, reconstruction, extension or substitution of nonconforming uses.

Section 1.04 Scope.

The standards and regulations of this Ordinance shall apply to all land, structures, uses, and land development projects established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use be established, changed or commenced, nor any structure constructed, altered, or extended, except in compliance with this Ordinance.

1. **Minimum requirements.** The provisions of this Ordinance shall be held to be the minimum required for the preservation, protection, and promotion of the public health, safety, convenience, comfort, and general welfare.
2. **Relationship to other ordinances or agreements.** This Ordinance is not intended to repeal or annul any ordinance, rule, regulation or permit previously adopted, issued, or entered into and not in conflict with this Ordinance, subject to the following:
 - a. Private deed restrictions or restrictive covenants shall have no effect on the applicability of this Ordinance.
 - b. Where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules or regulations, the requirements of this Ordinance shall govern.
3. **Unlawful structures and uses.** A structure or use not lawfully existing prior to adoption of this Ordinance shall not be made lawful by adoption of this Ordinance.
4. **Vested right.** Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein. Such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation, protection or promotion of the public health, safety, convenience, comfort or general welfare.

Section 1.05 Compliance Required.

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

Section 1.06 Authority, Duties, and Responsibilities.

The purpose of this Section is to set forth the specific duties, responsibilities, and scope of authority of the boards, commissions, and officials charged with administering, implementing, and enforcing the provisions of this Ordinance, as follows:

A. Township Board Authority and Responsibilities.

The Township Board shall have the ultimate responsibility for administrative oversight and enforcement of this Ordinance, and shall further have the following responsibilities and authority pursuant to this Ordinance:

1. **Adoption of this Ordinance and any amendments.** In accordance with the intent and purpose of this Ordinance, and the authority conferred by the Michigan Zoning Enabling Act, the Township Board shall have the authority to adopt this Ordinance and Official Zoning Map, as well as any subsequent amendments considered in accordance with Section 12.04 (Amendments).
2. **Review and approval of planned unit developments (PUD).** Township Board review and approval shall be required for all PUD projects, in accordance with Article 14 (Planned Unit Developments).
3. **Setting of fees.** The Township Board shall have the authority to set fees for all applications for approvals required under this Ordinance to defray costs and expenses incurred in processing such applications.
4. **Appointment, oversight, and removal of zoning officials.** The Township Board shall appoint a Zoning Inspector and any other zoning enforcement officials deemed necessary to act as the officer(s) for the proper administration and enforcement of this Ordinance.
 - a. The duties and responsibilities of the Zoning Inspector may be vested in one (1) person, divided among two (2) or more persons or delegated to designated Township consultants as the Township Board may determine.
 - b. The Zoning Inspector and any other zoning enforcement officials shall be appointed by the Township Board for such term, rate of compensation, and employment terms and conditions as the Board shall determine.
 - c. The Township Board may remove the Zoning Inspector and any other zoning enforcement official from office in accordance with such employment terms and conditions as the Board shall determine.

C. Planning Commission Authority and Responsibilities.

The Planning Commission shall have the following responsibilities and duties pursuant to this Ordinance.

1. **Zoning Board authority.** All powers, duties, and responsibilities for a zoning board as provided by the Michigan Zoning Enabling Act are hereby transferred to the Township Planning Commission.
2. **Formulation of Zoning Ordinance.** The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Township Board.
3. **Site plan and special use approval.** The Planning Commission shall be responsible for review and action on applications for site plan approval per Section 12.01 (Site Plan Review); and for holding hearings, review, and action on applications for applications for special use approval per Section 12.02 (Special Uses).
4. **Planned unit development (PUD) review and recommendation.** The Planning Commission shall be responsible for holding hearings, review, and making recommendations to The Township Board for action on proposed PUD projects per Article 14 (Planned Unit Developments).
5. **Formulation of a General Development Plan.** The Planning Commission is hereby designated as the commission specified in the Michigan Planning Enabling Act, and shall perform the duties of said commission as provided in the statute.
6. **Report on the operation of the Zoning Ordinance.** The Planning Commission shall periodically oversee the preparation of a report to The Township Board on Zoning Ordinance operations, including recommendations as to the enactment of amendments or supplements to the Ordinance.
7. **Review of other matters referred by The Township Board.** The Planning Commission shall be responsible for review and making recommendations to The Township Board for action on subdivision plats, land division applications, and other matters referred by The Township Board.

D. Zoning Board of Appeals Authority and Responsibilities.

The Zoning Board of Appeals shall have the authority and responsibilities as specified in Article 17 (Zoning Board of Appeals) of this Ordinance.

E. Township Clerk Authority and Responsibilities.

The Township Clerk or duly authorized agent(s) shall have the following responsibilities under this Ordinance:

1. Publish all notices required by these regulations, or verify such publication by the Zoning Inspector or other zoning official.
2. Maintain official records and file all official minutes and documents in an orderly fashion.
3. Perform other related duties required to administer these regulations.

F. Zoning Inspector Duties and Responsibilities.

The provisions of this Ordinance shall be enforced by the Zoning Inspector, and any other zoning enforcement officials as designated and authorized by the Township Board. The Zoning Inspector shall have the responsibility of carrying out such administrative and enforcement duties as specified in this Ordinance or as directed by the Township Board for the purpose of implementing these regulations.

1. The Zoning Inspector shall administer and enforce this Ordinance precisely as written, and shall not modify, vary or ignore the terms of this Ordinance nor grant exceptions to the actual meaning of any clause, order or regulation.
2. The Zoning Inspector shall have the authority to review and approve applications for zoning permit and certificate of zoning compliance approval in compliance with the provisions of this Ordinance, to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.
 - a. It shall be unlawful for the Zoning Inspector to approve any plans or issue any permits, certificates of zoning compliance or other approvals under this Ordinance unless such plans have been determined to conform to all applicable provisions of this Ordinance.
 - b. The Zoning Inspector shall not refuse to approve a zoning permit or certificate of zoning compliance upon determination that the applicant has complied with all conditions imposed by this Ordinance, despite any violations of private contracts, covenants or agreements that may result from work performed or improvements made under the approved permit or certificate.
3. The Zoning Inspector shall have the authority to interpret the provisions of this Ordinance in such a way as to preserve and promote the character of the zoning district in question, and carry out the intent and purposes of this Ordinance and the Township's General Development Plan. Such interpretations shall be subject to appeal to the Zoning Board of Appeals by an aggrieved party in accordance with Section 17.06 (Interpretations).
4. The Zoning Inspector shall provide citizens and public officials with information relative to these regulations and related matters, and shall assist applicants in completing appropriate forms and following zoning approval procedures.

5. The Zoning Inspector shall periodically report to The Township Board and Planning Commission on the status of Township's zoning administration and enforcement.
6. The Zoning Inspector shall distribute all applications for zoning or development approval to the Township Planner and designated Township officials and consultants for review and comment.
 - a. The Zoning Inspector shall assist the Township Clerk with the publication of all notices required by these regulations.
 - b. In consultation with the Township Supervisor and Township Planner, the Zoning Inspector shall forward to the appropriate Township board or commission all relevant materials related to matters upon which the board or commission is required to act.
7. The Zoning Inspector shall have the authority to initiate investigations into alleged violations of these regulations, investigate complaints of Ordinance violations, issue warnings and citations, and make inspections of buildings or premises necessary to carry out the enforcement of this Ordinance.
 - a. If the Zoning Inspector shall find that any of the provisions of this Ordinance are being violated, he or she shall promptly notify the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.
 - b. The Zoning Inspector shall order the discontinuance of unlawful uses of land or structures, removal of unlawful structures or alterations, discontinuance of work performed in violation of this Ordinance, and shall take such action(s) authorized by this Ordinance to ensure compliance with or prevent violation of Ordinance provisions.
8. In carrying out designated duties, the Zoning Inspector shall have the authority to perform such other functions necessary or incidental to the administration of this Ordinance, as directed by the Township Supervisor and Township Board.

G. Township Planner Responsibilities.

The Township may employ a Township Planner, who may be a member of Township staff; or a person, firm or organization retained on a consulting basis. In addition to specific responsibilities outlined elsewhere in these regulations and upon request from the Township Board, Planning Commission or other authorized Township body or official, the Township Planner may fulfill following responsibilities:

1. Prepare and administer such plans and ordinances as are appropriate for the Township and its environs, within the scope of the appropriate Michigan planning and zoning enabling acts.

2. Advise and assist the Township Board, Planning Commission, Zoning Board of Appeals, and other authorized Township bodies or officials; and be responsible for carrying out the directives of the Planning Commission.
3. Provide citizens and public officials with information relative to these regulations and related matters.
4. Review applications for zoning or development approval, administrative appeals, variances, and take any action required under these regulations.
5. At the request of the Planning Commission or Township Board, draft amendments to the Zoning Ordinance and other ordinances to accomplish the planning objectives of the Township
6. Periodically report to the Planning Commission on the status of Township's zoning and planning administration.
7. Prepare and facilitate regular training workshops and/or educational materials for Township officials, boards, and commissions on planning and zoning topics.
8. Perform other related duties, as authorized, to administer these regulations.

Section 1.07 Permits and Certificates of Zoning Compliance.

No structure or site shall be used erected, moved, enlarged, altered or demolished until the owner or occupant has applied for and obtained a preliminary certificate of zoning compliance or zoning permit from the Township. No certificate of zoning compliance or zoning permit shall be issued to erect, move, enlarge, substantially alter, or demolish a structure or site unless the request is in conformance with the provisions of this Ordinance.

It shall be unlawful to use or occupy or permit the use or occupancy of any structure or premises or part thereof created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a final certificate of zoning compliance shall have been issued by the Zoning Inspector. Failure to obtain zoning permit or preliminary or final certificate of zoning permit approval shall be a violation of this Ordinance subject to the provisions of Section 1.09 (Violations and Penalties).

Where a provision of this Ordinance requires approval of a zoning permit or certificate of zoning compliance, such approval shall be subject to the following:

A. Building Permits.

Any building permit required in accordance with the State Construction Code enforced by the Washtenaw County shall be in addition to any zoning permit(s) or certificate(s) of zoning compliance required under the provisions of this Ordinance.

1. No construction, relocation, expansion or alteration of any structure shall begin or continue until a preliminary certificate of zoning compliance has been issued

by the Township and any required building permits have been issued by Washtenaw County.

2. Issuance of a building permit by Washtenaw County shall not exempt a building permit holder from compliance with the requirements of this Article and Ordinance.

B. Permit or Preliminary Certificate Application.

An application for approval of a zoning permit or preliminary certificate of zoning compliance shall be filed with the Zoning Inspector, and shall be accompanied by a written explanation of the proposed improvements. Application materials shall include sufficient detail for the Zoning Inspector to determine whether the proposed improvements conform to the provisions of this Ordinance. The Zoning Inspector may require that the application submittal be accompanied by plans and specifications drawn to scale and showing the following:

1. The location, shape, area, and dimensions of the lot or parcel involved.
2. The size, shape, dimensions, and location of any existing or proposed structures to be situated on the lot or parcel.
3. The existing and proposed use of the lot or parcel and all structures upon it.
4. The location and dimensions of any existing and proposed yard, open space, and parking areas.
5. Proposed setbacks of structures from lot lines, streets, lakes, and streams.
6. Any other information deemed necessary by the Zoning Inspector for the proper enforcement of this Ordinance.

C. Permit or Preliminary Certificate Approval.

Approval of a zoning permit or preliminary certificate of zoning compliance or under this Ordinance shall be subject to the following:

1. The Zoning Inspector shall issue a zoning permit or preliminary certificate of zoning compliance within ten (10) business days after determination that the proposed work conforms with all applicable provisions of this Ordinance.
 - a. No zoning permit or certificate of zoning compliance shall be issued until the Zoning Inspector has received notification of final approval of a site plan, special use or other necessary approval, including any conditions of approval.
 - b. It shall be unlawful for the Zoning Inspector to issue a zoning permit or preliminary certificate of zoning compliance for proposed work that does not conform or has not been determined by the Zoning Inspector to

conform to all applicable provisions of this Ordinance, including any conditions of approval.

2. In all cases where the Zoning Inspector shall refuse to issue a zoning permit or certificate of zoning compliance, the reasons for such refusal shall be provided in writing to the applicant.
3. Proof of zoning permit or preliminary certificate of zoning compliance approval shall be posted upon the premises.

D. Revocation of Permit or Preliminary Certificate Approval.

The Zoning Inspector may revoke a zoning permit or preliminary certificate of zoning compliance in the case of failure or neglect to comply with any of the provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The Zoning Inspector shall notify the applicant of such revocation in writing.

E. Duration of Permit or Preliminary Certificate Approval.

A zoning permit or preliminary certificate of zoning compliance issued in accordance with this Section shall be valid for a period of 365 calendar days from the date of issuance. If construction is not started within this period, the zoning permit or preliminary certificate of zoning compliance shall become void. Upon request, the Zoning Inspector may grant one (1) extension of approval for up to 365 calendar days.

F. Permit and Final Certificate Inspections and Approval.

It shall be the duty of the holder of every zoning permit or preliminary certificate of zoning compliance to notify the Township when the work subject to the permit or preliminary certificate is ready for final inspection. It shall be the duty of the Zoning Inspector to inspect work performed under an approved permit or preliminary certificate for compliance with the provisions of this Ordinance.

1. Upon determination that the work was completed in conformance with this Ordinance, the Zoning Inspector shall issue a final certificate of zoning compliance within ten (10) business days after the inspection.
2. Upon determination that the work has not been completed in conformance with this Ordinance, a written notice of noncompliance shall be sent to the applicant stating the reasons why the final certificate cannot be issued. The notice shall be mailed within ten (10) business days after the inspection.
3. The Zoning Inspector shall maintain a record of all approved zoning permits and all preliminary and final certificates of zoning compliance, which shall be open for public inspection.

G. Nonconformities.

No nonconforming structure shall be renewed, changed or extended until a preliminary certificate of zoning compliance shall have been issued. This preliminary certificate of

zoning compliance shall state specifically how the nonconforming structure differs from the provisions of this Ordinance. It shall not be necessary for a nonconformity existing on the effective date of adoption of this Ordinance to obtain a final certificate of zoning compliance to maintain its legal nonconforming status where no changes are proposed.

Section 1.08 Fees and Performance Guarantees.

The Township Board may establish a fee schedule to defray fixed costs and expenses incurred by the Township to perform functions required under this Ordinance. The Township Board, Zoning Board of Appeals, Planning Commission, and Zoning Inspector may also require an applicant to deposit funds with the Township to defray anticipated variable costs and expenses incurred by the Township. No action shall be taken on any application or appeal until all applicable fees and escrow deposits have been accepted by the Township Treasurer.

A. Application Fees for Fixed Costs and Expenses.

Fixed costs and expenses for the processing of permits and applications for zoning, use, development or other approvals may be assessed as application fees, either as a nominal charge or based on a cost analysis. If based on cost analysis, the sums charged shall be periodically reviewed to ensure that cumulative charges reasonably reflect actual expenses and costs incurred by the Township.

1. Application fees are non-refundable, but may be waived by the Township Board for good cause.
2. The amount of the application fee shall be established by resolution of the Township Board. Before the fee schedule takes effect, notice shall be published in a newspaper having general circulation in the Township. The fee schedule shall be posted on public display in the Township offices.

B. Escrow Deposits for Variable Costs and Expenses.

The applicant may be required to deposit funds to defray anticipated variable costs and expenses incurred by the Township where professional input, study or review is desired before a final decision is made. Such escrow deposits may be used to pay professional expenses of community planners, engineers, attorneys, and other professionals whose expertise the Township values to provide guidance on the proposed application.

1. The funds shall be managed by the Township Treasurer, and shall be deposited before the cost or expense is incurred.
 - a. The funds need not be deposited in an interest bearing account. However, if the funds earn interest, the interest shall be credited to the applicant's account.
 - b. The applicant shall be regularly invoiced. The invoice shall show the date, sums credited and debited, and the manner in which the debit was computed, where appropriate.

- c. Costs incurred to manage the account may be debited to the account.
2. Upon request by the applicant, the Township shall provide copies of any written reports and statements of expenses for the professional services rendered.
3. The Township shall provide written notice and a request for an additional escrow deposit to the applicant if at any time the sums on deposit appear insufficient to cover anticipated costs and expenses.
 - a. The applicant shall promptly deposit additional funds in accordance with the written request from the Township.
 - b. If additional funds are not promptly deposited, the Township may issue a stop work order, cease review or table action on the application, deny zoning permits or certificates of zoning compliance associated with the application, or take no further action to process the project.
4. Where the Township determines that sums deposited appear likely to exceed anticipated costs and expenses, those excess funds shall be promptly returned to the applicant.
5. Sums remaining in the account when the project is completed shall be promptly returned to the applicant.

C. Performance Guarantees.

To ensure compliance with this Ordinance and faithful completion of required improvements, the Township Board, Planning Commission or Zoning Inspector 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 deposited prior to the start of work or issuance of any zoning permits or certificates of zoning compliance, and shall be subject to the following:

1. The amount of the performance guarantee shall be established based on an estimate of the cost of completing of all required improvements prepared by the applicant or designated Township consultants.
2. "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, parking, lighting, utilities, sidewalks, landscaping and screening, and drainage.
3. The form of the deposit shall be cash, certified check, irrevocable bank letter of credit or other surety acceptable to the Township Board.
4. Performance guarantees shall continue until the Zoning Inspector has determined that the conditions for release of the guarantee have been met.

5. As work progresses, the Township may rebate cash deposits in reasonable proportion to the ratio of work completed on the required improvements. A minimum of ten percent (10%) of the guarantee shall be retained by the Township pending a successful final inspection by the Zoning Inspector of all required improvements.

Section 1.09 Violations and Penalties.

The standards and requirements of this Ordinance reflect obligations to the community at large. It shall be the duty of the property owner and all persons having responsibility for the establishment of any use or the construction, alteration or demolition of any structure or site to verify that such work is not in violation of this Ordinance. Persons having responsibility for work in violation of this Ordinance shall be deemed responsible for such violations to the same extent as the property owner.

A. Violation.

Failure to comply with any of the provisions of this Ordinance, or provisions of permits or certificates granted in accordance with this Ordinance shall constitute a violation subject to issuance of a municipal civil infraction or misdemeanor citation and other measures allowed by law.

1. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.
2. For purposes of this Section, the term "subsequent offense" shall mean a violation of the provisions of this Ordinance committed by the same person within 365 calendar days of a previous violation of the same provision for which the person admitted responsibility or was found responsible by the court.
3. Each day that a violation is permitted to exist shall constitute a separate offense. Offenses committed on subsequent days within a period of seven (7) calendar days following the issuance of a citation for a first offense shall all be considered separate first offenses.

B. Correction Period and Stop Work Orders.

All violations shall be corrected within 30 days following the receipt of an order to correct from the Zoning Inspector. The Zoning Inspector may grant an extension of up to 180 days upon determining that the additional time is necessary for correction. The Zoning Inspector may require the immediate correction of a violation upon determining that the violation presents an imminent peril to life or property.

1. The Zoning Inspector may issue may issue a stop work order to halt all construction activities or usage pending the resolution of the alleged violation.
2. If the violation is not corrected within the time period specified by the Zoning Inspector or a stop work order is disregarded, the Zoning Inspector shall notify

the Township Board and request that appropriate legal action be taken by the Township Attorney to resolve the violation.

C. Penalties and Remedies.

A firm, corporation, person or persons, or anyone acting on behalf of said person, persons, firm or corporation who violates the provisions of this Ordinance by failing to comply with any of its provisions and requirements, including without limitation, violations of conditions and safeguards established in connection with variances, approved site plans, permits, certificates, or other authorizations under this Ordinance shall be subject to any or all of the following penalties and remedies:

1. **Violation as misdemeanor.** A violator shall be guilty of a misdemeanor and upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 90 calendar days, or both, and in addition, shall pay all costs and expenses involved in the case, including the cost of prosecution. Each day a violation continues shall be considered a separate offense. The imposition of any such fine or sentence shall not exempt the violator from compliance with this Ordinance.
2. **Violation as civil infraction.** The violator shall be responsible for a civil infraction for which the court may impose a civil fine of not less than \$100.00 nor no more than \$10,000.00 per day of violation plus all costs, direct or indirect, which the Township has incurred in connection with the violation, including the Township's attorney fees. The imposition of any such fine shall not exempt the violator from compliance with this Ordinance.
3. **Injunctive relief.** The Township may commence civil suit seeking injunction, specific performance, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance.
 - a. In the event the Township commences civil suit pursuant to this Section and it is determined that a violation has occurred, in addition to any other remedies to which the Township shall be entitled, it shall also be entitled to recover from the violator its actual attorney fees and costs incurred in enforcing provisions of this Ordinance.
 - b. A petition for injunctive relief shall in no way relieve the violator of any and all criminal or civil liability associated with the violation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, any other actions by the Township against the violator.
4. **Choice of remedy.** The decision to charge a violator with a misdemeanor or a civil infraction or to seek injunctive relief to enjoin violations of the Ordinance or any combination of these remedies, shall be at the sole discretion of the Township.

D. Public Nuisance.

Any structure which is erected, altered, or converted, or any use of any structure or lot which is established or altered in violation of any of the provisions of this Ordinance is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.