New Planning Commission Member Resource Packet

Table of Contents

1. Planning Commissioner Roles & Responsibilities

2. Glossary of Planning Terms

3. Parliamentary Procedures

4. Michigan Planning Legislation
   - Land Division Act (Act 288 of 1967)
   - Open Meetings Act (Act 267 of 1976)
   - Zoning Enabling Act (Public Act 110 of 2006)
   - Planning Enabling Act (Public Act of 33 of 2008)

5. Michigan State University Extension Land Use Series
   - Planning
     - Sample Bylaws for a Planning Commission
     - What Should be in a Master Plan?
     - Adoption of a Plan in Michigan
     - The Five-Year Plan Review
     - Adoption of an Amendment to a Plan
     - Adopting or Updating a Capital Improvement Program
     - Review of Infrastructure and Public Capital Expenditures
     - Adoption of a Subdivision Ordinance or Rules Governing the Subdivision of Land in Michigan
   - Zoning
     - Organization and Codification of a Zoning Ordinance
     - Adoption of a Zoning Ordinance in Michigan
     - Adoption of an Interim Zoning Ordinance in Michigan
     - Adoption of a Zoning Amendment (including some PUDs) in Michigan
     - Processing a Zoning Special Use Permit (including some PUDs) in Michigan
     - Processing a Zoning Appeal and Variance in Michigan
   - Other
     - A Behavioral Approach to Avoid Regulatory Takings
     - Better Designs for Development in Michigan
     - County Planning: Its Legal Authority and Coordinated Planning
     - Form Based Codes and the Michigan Zoning Enabling Acts
     - How to Deal with Accumulated Junk Problems
     - How to Set Permit Fees
     - How to Take Minutes for Administrative Decisions
     - Michigan’s Right to Farm Act and New Generally Accepted Agricultural and Management Practices
     - Removing Spot Zoning from the Fabric of Zoning Practice
     - Summary of Property Takings Case Law
Planning Commissioner Roles & Responsibilities
The following information “**Planning Commissioner Roles and Responsibilities**” is one chapter from a useful resource document prepared by the Michigan Association of Planning entitled, “The Planning Commissioner’s Toolkit”

Other Chapters include:

*Preparing and Conducting Meetings*
*Review of Development Proposals*
*Planning and Zoning Laws*

The complete Toolkit is available for review and may be checked-out by visiting the Ottawa County Planning Resource Library at [http://miottawa.org/Departments/Planning/library.htm](http://miottawa.org/Departments/Planning/library.htm)

If you would like to purchase a copy of The Planning Commissioner’s Toolkit, please visit the resource page of the Michigan Association of Planning Web site: [http://www.planningmi.org/publications.asp](http://www.planningmi.org/publications.asp)

Membership information for the Michigan Association of Planning is provided at the end of this section.
Section 1: Roles and Responsibilities of the Planning Commissioner
The Planning Commission

The need for input from a group of individuals who are not directly affected by political concerns is as old as zoning itself. Planning commissions address this need. Planning commissions are created by authority given to local units of government by the Michigan Planning Enabling Act. This Act clearly identifies the most basic and overarching task of a planning commission: the development and adoption of a basic plan as a guide for the development of a community and support of local zoning.

Planning Commissioner Responsibilities

As a planning commissioner, an individual is expected to make a commitment to the community by developing and upholding the master plan. This commitment requires the planning commission to hold at least four meetings per year, however, most planning commissions will typically meet more often. In addition to meetings, planning commissioners must commit the time to study particular issues, familiarize themselves with the physical and political aspects of the community, and become knowledgeable about all petitions under their consideration. The planning commissioner may also be expected to attend other meetings and events as appropriate to ensure that the role of the planning commission is carried out in concert with other legislative and administrative bodies of a community.

Planning Commission Functions

Develop and adopt a master plan. As previously referenced, the most basic task of a planning commission is to develop and adopt a master plan for a community. The master plan is important to a community to guide development. The plan provides a basis upon which zoning decisions are made, and helps decision makers to interpret proposals.

Perform Site Plan Review. One mechanism that functions to implement the goals and recommendations of the master plan is the site plan review process. Most communities require site plans for development proposals that will be reviewed by local officials. The planning commission is generally responsible for the initial review of site plans for development and is often the final authority in such reviews.

Conduct Special Land Use Reviews. Planning commissions are also responsible for the review of special land uses. Unlike permitted uses which are allowed by right, special land uses require additional review. In performing this review, planning commissions consider the use of particular properties for specific uses that, due to some aspect, require special consideration by the planning commission.

A keen understanding of the community’s master plan and zoning ordinance is required to make proper decisions about site plan review and special land uses. While state planning and zoning laws authorize planning commissions to render final approval of master plans, site plans and special land uses, many
communities take this a step further and provide the legislative body with this authority.

Other functions. The legislative body of a community may assign other responsibilities to the planning commission such as review of subdivision plats and public works projects, preparation of land use regulations, development of a capital improvement program, and public education.

Coordinating Planning and Zoning with Other Governmental Units
Planning commissions should maintain contact with other governmental units. First, and perhaps most important, is the interaction of the planning commission with other agencies within the community such as:

- Zoning Board of Appeals (ZBA)
- Economic Development Corporation (EDC)
- Downtown Development Authority (DDA)
- Historic District Commission (HDC)
- Legislative Body
- Brownfield Redevelopment Authority (BRA)

In addition to those bodies within a jurisdiction, it is also important for planning commissions to assist in community relations by interacting with other groups such as the following:

- Counterpart agencies in adjacent cities, village or townships (ZBA, EDC, DDA, etc.)
- County government
- Regional government (Councils of Government (COGs))
- State of Michigan

Regardless of authority, the importance of coordinated planning efforts can not be underestimated. In fact, Michigan’s planning and zoning laws include provisions that require coordination with and notification of neighboring communities, regional agencies, and other entities in regards to planning and zoning matters.

Planning in a Political Context
It can be difficult on occasion when others oppose your judgment, especially when you see your decision as being based on the master plan. During these potentially frustrating times, it is important that you recall that planning occurs within the context of the democratic process. This process does not guarantee perfect results. It only means that others be given the opportunity under established rules to participate and influence decisions that affect them. It may also be helpful to remind yourself that your decisions cannot please everyone; efforts to compromise on the issues solely to achieve an acceptable middle ground is not a charge given to planning commissioners.
Philosophical Divide

The Land Use Challenge

New development often brings out concerns over land use. Residents become concerned about losing the character of their community. Those who propose changes are acting to protect their own investment, whether personal or professional. Decision-makers must, within the constraints of the law, allow for development which is consistent with the existing or planned character of the community and reject that which is not.

This can create land use conflicts and divide communities along philosophical lines. The master plan and zoning ordinance should prioritize these sometime conflicting or competing interests as a matter of policy. In each decision, the commissioners must apply the policy to the specific facts at hand. The planning commission, often caught in the middle, may look back and say, "How did we get into this mess?"

In truth, advocates for development and preservation have common goals. Most of the time, both seek better use of the land from their own perspectives: the developer to protect his or her financial interest, and the neighbors to maintain their quality of life. Planning commissioners must weigh each of these interests.
How to Be an Effective Planning Commissioner

Planning commissions have two major obligations: developing a master plan, and providing leadership to implement that plan. These two responsibilities follow a logical process: studying various problems and strengths of a community, which includes soliciting citizen input; developing a master development plan; recommending rules to implement the plan; and finally, reviewing development proposals within the recommendations of the master plan. The following will help a planning commissioner become effective:

☑️ Build good relations with the legislative body and the community. If your planning commission builds good relations with the legislative body and community and recommends carefully considered development policies and rules, your community will reap the benefits as a place that functions efficiently and is aesthetically pleasing.

☑️ Be willing to see the “big picture.” A community doesn’t happen all at once, it evolves as the result of the cumulative effect of many planning commission decisions. Various proposals are presented to the planning commission by development professionals and private citizens and often in piecemeal fashion: a site plan review request here, a rezoning request there, a capital improvement plan update, and perhaps a decision to tear down or preserve an old “downtown” theater or local landmark. To the untrained eye, these actions may seem disjointed and isolated from one another, but since the development of a community is ongoing, these actions are evidence that your community is continuing to grow. In large part, your task as a planning commissioner is to remember the future picture envisioned in the master plan. The community is the sum of its parts, assembled not instantaneously, but over time. It is easy to forget the long-range picture, or goal, when considering one site at a time.
An Introduction to Planning and Zoning

There are two main state enabling acts that permit townships, cities, villages and counties to address planning and zoning (see Appendix for planning and zoning laws). Elected officials, planning commissions, and zoning boards of appeals must be aware of the limits of the authority granted to them and should consult their local attorney when in doubt about the extent of their authority.

The Michigan Planning Enabling Act authorizes the preparation of a master plan, which serves as a guide to future growth and development.

The Michigan Zoning Enabling Act authorizes local units of government to adopt a zoning ordinance. The zoning ordinance is one of the principal tools used to implement the master plan. Developing a planning and zoning program involves the elected officials, planning commission, zoning board of appeals, the community's attorney, administrative staff, and the public.

What is a Master Plan?

A master plan, also referred to as a comprehensive plan or future land use plan, is an official document authorized by Michigan law serving as the basis for zoning. The master plan also guides decisions on development and public capital improvements.

The master plan can be viewed as a blueprint for the community's future. The typical master plan:

- Identifies and evaluates existing conditions and trends.
- Establishes goals with public input.
- Considers alternatives and provides recommendations for the physical development or redevelopment of the community.

The overall purpose of a master plan is to formulate public policy promoting public health, safety, and general welfare. This is done by establishing a land use plan that is appropriate given the market demands, community character, environmental conditions, availability or capacity of public infrastructure and services, and relationship to other existing or planned land uses. The plan must protect property rights by allowing individuals to invest in their property with a certain degree of expectation about the future surroundings.

Why Prepare a Master Plan?

A community without a master plan must react to individual development proposals without a strategy. A master plan can provide answers to questions such as:

- What do the residents, business owners and community officials most value
or want to change?

- How much single family, multiple family, commercial or industrial land should there be?
- Where should land uses be located?
- How intense should such land uses be?
- What will be the impact on the environment?
- Can the land or utility system support the land uses?
- Can the road system handle expected growth? If not, what improvements are needed and when?
- What are the future plans of adjacent communities or agencies having authority within our community?
- What changes are needed to regulations, procedures or community facilities and services to improve the community?

Master Plan Considerations

Plan Timeframe. The plan is intended to be long range. In some communities, the plan might look forward 10 to 20 years. Because it is difficult to predict beyond a few years, many plans include specific short-term recommendations with more general or flexible guidelines for further into the future.

Legal Basis for Zoning. State law requires that communities have a basic plan as the foundation for, and to legitimize, the zoning ordinance and other regulations that shape the physical and social development of the community. The lack of an up-to-date master plan makes it more difficult to defend decisions undertaken through the zoning ordinance.

Guides Land Use Decisions. Recommendations in the master plan can be used to guide decisions on zoning or changes to land use. Officials do not have to guess about the best course of action for a community; it is spelled out in the plan.

What is Zoning?

Zoning is the public regulation of the use of land. It involves the adoption of an ordinance that divides a community into various districts, or zones, and describes regulations on use, buildings, structures and land within the various zones. For example, an ordinance may limit the establishment of multiple-family residences
to certain zones, and direct agricultural activity to other zones, according to the master plan. Each district lists the permitted uses of land within that zone (such as residential, commercial or industrial), and area, height and placement requirements. The zoning ordinance also includes an official zoning map, which depicts graphically the physical location of the various zoning designations. Zoning is considered a "police power" regulation, one of a number of laws (such as building and health codes) which are adopted to protect the public health, safety and general welfare.

The legislative body is responsible for adopting the zoning ordinance.

Michigan law requires that zoning be based upon a plan designed to promote the public health, safety and general welfare of all citizens. Thus, zoning is based upon a master plan that is prepared and periodically updated by the planning commission. It is also one of the

What's inside the Zoning Ordinance?

Among others, zoning can implement policies by:

☑ Protecting property values by providing minimum standards for land use and preventing incompatible land uses from locating in a given area.

☑ Protecting natural resources through prevention of over-development of the land and providing standards for natural features protection.

☑ Preventing nuisances through maintaining harmonious land use relationships and requiring setbacks between uses.

☑ Insuring compatibility of uses through dividing land uses among districts.

☑ Preventing overcrowding by limiting the intensity and density of development, limiting the congestion of transportation systems and other public facilities, and controlling the rate, location, and timing of development.
What Triggers the Need for Planning?

The 500-pound gorilla - One major development project can drastically change a community's planning needs. During periods of economic recession, communities around the country scrambled to put together attractive development packages. An unprecedented example of this occurred in the early 1980's during General Motors Corporation's search for a location for the new Saturn automobile manufacturing facilities. Few communities had planned for such a facility; certainly a small town in Tennessee had not. A project of such size and impact forced Spring Hill to drastically alter its view of the future.

New people, new ideas - Elections and new appointments to a community's boards and commissions can foster enthusiasm for changes in the way a community will grow. Every new person brings with them new experiences, ideas and desires for the future. New residents bring past experiences with them. Some individuals may have lived in a community with a very effective planning program and they want to promote the value of such a program. Other individuals have lived in a community that suffered from the lack of planning and are determined to prevent similar problems in their new community.

Standing room only - Well attended planning commission meeting is not unusual, continuing controversy over development in a community makes the need for planning obvious. Planning commissions that find themselves constantly on the defensive in front of large groups of irate people should be motivated to look for ways to improve their planning efforts.

Master plans are not like fine wine - Master plans do not age well. Physical conditions and population change over time. Even if the population figures do not change, the demographics do. A new census can reveal changes in median age, income and family size, each of which may effect the future needs of a community.

If the planning commission and elected officials have not consistently followed the master plan, it becomes increasingly difficult to use it in defense of individual zoning actions. Ignoring the master plan when it does not support desired actions and then trying to enforce it when it does, is a recipe for disappointment—and possible legal action—with an adverse result. A plan that is consistently used and regularly updated to reflect changing needs, desires and events can be an effective tool to mold a community's future. The Michigan Association of Planning has long advocated a thorough review and update, if necessary, of the master plan at least once every five years.
Linking the Master Plan and the Zoning Ordinance

The relationship between the master plan and the zoning ordinance is a critical one and often not clearly understood. To properly use the master plan and zoning ordinance, it is necessary to understand the differences between the two documents and how they complement one another.

☑ The master plan is a statement of policy. The zoning ordinance is a law. The Master plan is a policy document that states the general principles on which development will be based and identifies specific issues affecting development. Its adoption does not regulate or change land use. Only a change to the zoning ordinance through a rezoning can change how land is actually used or the regulations affecting that land.

☑ The master plan refers to future land use. The zoning ordinance affects current land use. Another difference between the master plan and the zoning ordinance is timing. The master plan shows the intended land use at the end of the planning period, which could be more than 20 years into the future. The master plan is not intended to be immediately translated into zoning. Rather, the master plan is implemented over a period of time. The zoning ordinance shows land as it is intended to be used today.

Conclusion

As a new commissioner, the plans and ordinances for your community probably appear somewhat bewildering. In fact, we have only covered two of the documents that you will likely see. Others, such as the subdivision ordinance, capital improvement plan and recreation plan, are also valuable resources. By far the greatest responsibility of the commission is to provide guidance for land use and development in the community. A properly developed, well thought-out master plan and an effective zoning ordinance can be of great value to a community. They provide an improved quality of life, more efficient use of financial and other resources, a cleaner environment and an economically healthy community.
The Michigan Association of Planning (MAP) is the only organization in Michigan devoted solely to representing elected and appointed local officials and professional planners, who share a commitment to making informed land use and planning decisions.

Since 1945, MAP has worked to improve the communities where we live, work, play, and learn. Through advocacy, education, and information, MAP strives to help its members achieve a desired quality of life through comprehensive community planning that includes opportunities for a variety of lifestyles and housing, employment, commercial activities, and cultural, and recreational amenities.

Through a variety of services and programs, MAP serves to assist all land use decision makers in Michigan with building the best communities.

Member Services & Programs

Regional and On-site Workshops
Held in various locations around the state, MAP's regional workshops are educational programs designed to bring both advanced and basic training to elected and appointed local officials. With our convenient on-site workshops, we send the instructor and training materials to your location.

Michigan Planner Magazine
Every month the Michigan Planner and the Michigan Planner e-dition keep MAP members up-to-date on the latest techniques in planning and land use, as well as strategies being applied in communities around the state.

Publications
MAP produces over a dozen different guidebooks, manuals, and other resources on a variety of topics, some of which are included in your annual membership. Check out our webpage for the latest available publications.

Member Discounts
MAP members receive valuable discounts on all Association workshops, conferences, and educational materials.

Web Site
MAP's ever-expanding site, www.planningmi.org, gives you the latest news on MAP legislative initiatives and decisions made at the capital regarding land use, association events, upcoming educational workshops, job postings, and more.

AICP and MSU Master Citizen Planner Credits
Most MAP courses qualify for certification maintenance (CM) credits for AICP members and MSU Extension Master Citizen Planners. Fulfill your continuing education requirements by participating in MAP programs.

Sponsorship and Advertising
Sponsorships and advertising opportunities are available to private sector members interested in additional exposure through the Web site and event sponsorships, display advertising, and legislative support.

Networking Opportunities
MAP members gather each fall for Planning Michigan, the premier educational conference for planners in Michigan. The annual Spring Institute and Legislative Assembly also provide valuable networking time. MAP members may become more involved in the association through election to the Board of Directors or appointment to committees.
Name

Title

Municipality or company

Address

City, state, zip code

County

Phone

Fax

E-mail

☐ Individual $60
☐ Group (up to 12)* $625
☐ Corporate (up to 12)* $750
☐ Contributing $100 ($40 for APA members)
☐ Sustaining $200 ($140 for APA members)
☐ Student $15

Date of expected graduation:

School:

*please attach a list of all group members, including contact information

Payment Information:

☐ Invoice Me
☐ Check enclosed (made payable to MAP)
☐ MasterCard ☐ Visa

Card number Expiration

Card holder’s name Security Code

Signature

Michigan Association of Planning
219 S. Main Street
Suite 300
Ann Arbor, MI 48104

(734) 913-2000
(734) 913-2061 fax
info@planningmi.org
www.planningmi.org
Glossary of Planning Terms
Planning Terms Glossary

Accessory Use
An activity or structure that is incidental to the main use of a site.

Building Envelope
The space remaining on a site for structures after all building setback, height limit, and bulk requirements have been met.

Capital Improvement Program
A timetable for the installation of permanent public structures, facilities, roads, and other improvements based upon budget projections.

CEQA
The California Environmental Quality Act (see Public Resources Code section 21000). CEQA requires that private and public projects' potential adverse effects upon the environment be reviewed by decision-makers.

Charter City
A city which has been incorporated under its own charter rather than under the general laws of the state. Charter cities have broader powers than do general law cities.

Cluster Development
Development which is clustered in a portion of a site, leaving the remainder in open-space. The amount of development allowed equals the amount that would have otherwise been allowed on the entire site.

COG
Council of Governments. California's 25 COGs are regional planning agencies concerned primarily with transportation planning and housing; they do not directly regulate land use. Elected officials from each of the cities and counties belonging to the COG make up its governing board.

Community Plan
A portion of the local general plan that focuses on a particular area or community within the city or county. Community plans supplement the contents of the general plan.

Conditional Use Permit (CUP)
A permit authorizing a use not routinely allowed on a particular site, subject to a public hearing. If approval is granted, the developer must meet certain conditions to harmonize the project with its surroundings.

Dedication
A grant of private land to a public agency for public use. Dedications are often used to obtain roads and parkland needed to serve a project.

Density Bonus
An increase in the allowable number of residences granted by the city or county in return for the project's providing low- or moderate-income housing. (see Government Code section 65915)

Density Averaging (or Transfer)
The density of development on a portion of a site is allowed to exceed usual limits provided that the overall density of the site does not do so. Density increases in one area are offset by a corresponding decrease in allowable density in another part of the site.

Design Review Committee
A group appointed by the city council to consider the design and aesthetics of development within all or a portion of the community.

**Development Agreement**
A binding contract between a developer and a city or county establishing the conditions under which a particular development may occur. The local government "freezes" the regulations applicable to the site for an agreed upon period of time. (see Government Code section 65864)

**Development Fees**
Fees charged as a precondition to construction or development approval. The most common are: (1) impact fees (such as parkland acquisition fees, school facilities fees, or street construction fees) related to funding public improvements necessitated in part or in whole by the development; (2) connection fees (such as water fees) to cover the cost of installing public services to the development; (3) permit fees (such as building permits or grading permits) for the administrative costs of processing development plans; and, (4) application fees (rezoning, variance, etc.) for the administrative costs of reviewing and hearing development proposals.

**Downzone**
A change of zoning to a more restrictive zone (for example, from multi-family residential to single-family residential).

**EIR**
Environmental Impact Report. A detailed review of a proposed project, its potential adverse impacts upon the environment, measures that may avoid or reduce those impacts, and alternatives to the project.

**Easement**
The right to use property owned by another for a specific purpose. Power line easements are a common example.

**Eminent Domain**
The right of government to take private property for public use upon the payment of just compensation to the owner. This is also called condemnation (condemnation can also mean the closing of an unsafe structure by a public agency to protect the community safety).

**Exaction**
A fee or dedication required as a condition of development permit approval.

**Final Map Subdivision** *(also, tract map or major subdivision)*
Land divisions creating 5 or more lots. They are generally subject to stricter standards than parcel maps. Requirements may include road improvements, the construction of drainage and sewer facilities, park land dedications, and more.

**Findings**
The legal "footprints" which an agency must leave to bridge the analytical gap between the raw data considered by the agency and its ultimate decision. They expose its mode of analysis of facts, regulations, and policies.

**Floor Area Ratio (FAR)**
A measure of development intensity. FAR is the ratio of the floor area of a building to the area of its site. For instance, both a two-story building that covers an entire lot and a four-story building that covers 1/2 of a lot have FARs of 2.

**General Law City**
A city incorporated under and subject to the general laws of the state.

General Plan
A statement of policies, including text and diagrams, setting forth objectives, principles, standards, and plan proposals, for the future physical development of the city or county. (see Government Code section 65300)

"Granny" Housing
An accessory dwelling for one or more elderly persons that is attached to or separate from a main residence. Government Code section 65852.1 allows cities and counties to approve such units in single-family neighborhoods.

Growth Management
A local program limiting the rate of community growth. Growth management strategies vary, but they can include capping the annual number of building permits, relating allowable development intensity to certain levels of infrastructure service or limiting the location of new development.

Impact Fees
See Development Fees.

Infrastructure
A general term for public and quasi-public utilities and facilities such as roads, bridges, sewer plants, water lines, power lines, fire stations, etc.

Initial Study
An analysis of a project's potential environmental effects and their relative significance. An initial study is preliminary to deciding whether to prepare a negative declaration or an EIR.

Initiative
A ballot measure which has qualified for election as a result of voter petition. At the local level, initiatives usually focus on changes or additions to the general plan and zoning ordinance. The initiative power is reserved for the public by the California Constitution.

Inverse Condemnation
The illegal removal of property value through excessive government regulation. Legal advice should be sought before proceeding in cases of potential inverse condemnation.

LAFCO
The Cortese/Knox Act (see Government Code section 56000) establishes a Local Agency Formation Commission in each county. A LAFCO is made up of elected officials from the county, cities, and, in some cases, special districts. It administers the state law governing city incorporation and annexation proposals.

Mitigation Measure
The California Environmental Quality Act requires that when an environmental impact or potential impact will occur, measures must be proposed that will eliminate, avoid, rectify, compensate for or reduce that effect.

Moratorium
A halt to new development or the issuance of permits. Moratoria are often imposed while a new general plan or zoning ordinance is written or when sewer or water facilities are inadequate to serve additional development. (See Government Code section 65858)

Negative Declaration
A negative declaration is written when a project is subject to CEQA, but will not have a significant effect upon the environment. The negative declaration describes why the
project will not have a significant effect and may propose measures that avoid all possible effects.

Nonconforming Use
A land use which does not meet current zoning requirements.

Overlay Zone
A zone which is superimposed upon other zoning. Overlay zones are used in areas which need special protection (as in a historic preservation district) or have special problems (such as steep slopes or flooding). Development of land subject to an overlay must comply with the regulations of both zones.

Parcel Map
A minor subdivision resulting in fewer than 5 lots.

Planned Unit Development (PUD)
Land use zoning which allows the adoption of a set of development standards that are specific to a particular project. PUD zones usually do not contain detailed development standards; those are established during the process of considering proposals and adopted by ordinance upon project approval.

Referendum
A voter challenge to legislative action taken by a city council or county board of supervisors. If enough voters' signatures are filed before the legislative action becomes final, the council or board must either rescind its decision or call an election on the issue. The California Constitution guarantees the public's power of referendum.

School Impact Fees
Fees imposed on new developments to offset their impacts on area schools.

Setback
The minimum distance required by zoning to be maintained between two structures or between a structure and a property line.

Specific Plan
A plan addressing land use distribution, open space availability, infrastructure, and infrastructure financing for a portion of the community. Specific plans put the provisions of the local general plan into action (see Government Code section 65450).

Sphere of Influence
A plan for the "probable physical boundary and service area of a local agency" as approved by the LAFCO. It identifies the area available to a city for future annexation. However, unless another arrangement has been made, the city has no actual authority over land outside its city limits.

Spot Zoning
The zoning of an isolated parcel in a manner which is inconsistent or incompatible with surrounding zoning or land uses, particularly if done to favor a particular landowner. A conditional use permit is not a spot zone.

Strip Development
Commercial and high-density residential development located adjacent to major streets. This type of development is characterized by its shallow depth, street-oriented layout, lack of unified design theme, and numerous points of street access. It impedes smooth traffic flow.

Tentative Map
The map or drawing illustrating a subdivision proposal. The city or county will conditionally approve or deny the proposed subdivision based upon the design depicted on the tentative map.

**Tract Map**
See *final map subdivision.*

**Transportation Systems Management (TSM)**
A program coordinating many forms of transportation (car, bus, carpool, rapid transit, bicycle, etc.) in order to distribute the traffic impacts of new development. Instead of emphasizing road expansion or construction, TSM examines methods of increasing road efficiency.

**Variance**
A limited waiver from the requirements of the zoning ordinance. Variance requests are subject to public hearing and may only be granted under special circumstances.

**Zoning**
Local codes regulating the use and development of property. The zoning ordinance divides the city or county into land use districts or "zones", illustrated on zoning maps, and specifies the allowable uses within each such zone. It establishes development standards such as minimum lot size, maximum structure height, building setbacks, and yard size.
Parliamentary Procedures
PARLIAMENTARY PROCEDURES GUIDE
THE NUMBER ONE RULE: BE PREPARED

The leader or presiding officer should be well prepared before the meeting.

HE/SHE SHOULD:

1. Draft an agenda—a list of matters to be discussed in the order in which they will be discussed.

   Note: Sending the agenda to the members prior to the meeting is not only an invitation but also a way of motivating them to come to the meeting. Avoid having the same agenda every meeting. Make your agenda attractive.

2. Know in advance what to expect from reports, and be sure that everyone who is going to deliver a report is well prepared.

3. Arrange for the meeting place, and be certain it is set up to enable you or the speaker to see all of those present so that no one is ignored in the discussion.

The presiding officer should have outlined—at least in his own mind, if not on paper—the general direction and purpose of each item of business on the agenda. Sometimes he will expect perfunctory approval (as to the minutes of the prior meeting), and sometimes he may expect a prolonged discussion (as to a budget for the year’s expenses); but he should always have an idea to guide him, even though on many occasions the meeting will differ from the plan.

Being prepared, however, will permit him to guide the group rather than permit it to drift aimlessly. Thus he may help to increase the respect of those present not only for the protection of parliamentary law and democratic processes but also for their efficiency and practicability.

Members, too, should prepare. Those who are to make reports should know what they will say. The report should be concluded with a motion or statement on what new action should be taken.

Those who introduce something new should prepare a motion and should organize their thinking in advance so that they can adequately explain what they propose and why.

ORDER OF BUSINESS:

1. Opening of meeting. (Call to Order)
2. Approval (and reading if not distributed) of minutes of the previous meeting
3. Reports of board members and standing committees
4. Reports of special committees
5. Special orders*
6. Unfinished business and general orders**
7. New business
8. Closing of meeting. (Adjournment)

* Special orders: Important business, which the group has previously agreed to take up at this specific time

** General orders: Matters postponed from previous meetings and set for this meeting
CONDUCTING THE MEETING

At the exact hour named in the notice of the meeting, the presiding officer should call the meeting to order. He should determine that enough members (a quorum) are present to do business, in case decisions have to be made. A quorum is usually a majority (more than half) of the committee, a convention or group, unless the group provides otherwise in its rules.

For a very large group, a smaller number should be set by the by-laws or constitution, as it may be difficult to secure a necessary majority at the meeting. In no case should the meeting proceed without the quorum. This requirement is designed to insure the group that its decisions will not be made by an unrepresentative minority.

The next business should be the approval, as read or as amended by the group, of the minutes of the previous meeting. This enables those present to know what has already been done so time is not wasted in repetition.

If this is the first meeting, the presiding officer should explain the reason for the meeting and then have the group adopt a set of parliamentary rules for orderly procedure, name its temporary officers, and proceed with the business.

SPEAKING

Speaking is accomplished by obtaining the floor. One should rise and address the presiding officer. The one who should be recognized is the person who rises first after the previous speaker has yielded the floor. It is discourteous to raise your hand or stand while another has the floor, and such a person does not, therefore, get the right to the floor next.

If more than one person properly requests the floor when debate is on, certain rules apply: (1) The maker of the motion is first even though the last to rise—in order that he can explain his motion. (2) No one gets a second chance until everyone has had one chance to speak, and (3) the chairman should try to alternate speakers among all sides of an issue.

Speaking:

...Is not usually in order until the presiding officer indicates who is entitled to speak. Once recognized, the speaker should first give his name, and, if in a representative group, he should state whom he represents.

...Follows the making of a motion. If a report is presented, its reading precedes a motion. Following the motion, the reader of the report has the first opportunity to speak.

...Is limited—to give everyone an opportunity. The group can impose more or less restrictive rules. Robert's Rules of Order gives each person only two 10-minute opportunities to speak.

...Can be stopped altogether by a motion. But this motion requires a two-thirds majority of those voting, so that a bare majority cannot prevent discussion and a minority can be heard.
THE MOTION...

The motion is the means whereby the group takes action. It is a statement of what is to be done and how it is to be accomplished. It should be carefully worded to prevent misunderstandings. The wording should clearly channel discussion to the important aspects of the proposal.

The motion is made by stating, "I move that the.. (name of group). . (add what is to be done, by whom, when, how financed, etc.)."

Normally, it should be seconded. This means the seconding party believes the motion should be discussed. On occasions, the purpose of a seconder is to insure that the matter is at least of sufficient interest to be presented to the group, and thus the seconder prevents one man from wasting the group 5 time.

It is done be merely stating, without rising, "I second the motion." if, however, the type of minutes kept by the group requires the seconder's name to appear in the record, he should stand to facilitate recognition.

Parliamentary law is designed to insure that the group considers only one motion at a time. This prevents confusion and speeds action, and it is the presiding officer's duty to remind the group constantly which action is the main topic.

However, the requirements of getting a job done and preventing a small but vociferous minority from keeping a group in session or wasting time on inconsequential matters demand that certain motions receive precedence. These have specific objectives, which deserve early consideration by the group and are listed in order in the Chart on Parliamentary Motions, page 5.

When these motions are made, they immediately become the pending problem of the group and must be decided first. It is important to remember that only the motion with precedence is then before the group, even though any number of subsidiary, incidental, or privileged motions are, so to speak, on the floor.

Confusion will not result if the presiding officer keeps the group well informed and explains what has happened, what is happening, and what will happen next.

TYPES OF MOTIONS

The use of parliamentary forms over a period of time has resulted in the establishment of certain terminology which itself has specific parliamentary meanings. The terms often vary as to the group using them.

LAY ON THE TABLE: A motion to delay, to an indefinite time, consideration of a main motion by taking it figuratively from the floor, where action can be taken, and laying it on the table, where action cannot be taken. This helps to allow more time to consider the problem, yet does not set a definite time for reconsideration.

A majority of voters who tabled the motion can later figuratively take the motion from the table (Take from Table) and put it on the floor for discussion. When this is done, the 'motion comes back to the floor in the same condition as it went on the table, i.e., with the same wording.
MAIN MOTION: A motion to accomplish a part of the business of a group. Examples are to adopt a project, approve a budget or report, create a committee, approve an appointment, etc. All other motions are, in a way, procedural, while the main motion gets the work done. This is true, even though some other motions, like a motion to adjourn, are at times technically considered main motions.

SUBSIDIARY MOTIONS: A motion generally designed to facilitate action on a main motion—a motion subsidiary to the main motion. Examples include motions to debate, amend, refer to committee, lay on the table, etc.

INCIDENTAL MOTIONS: These motions are incidental to the consideration of business and accomplish certain parliamentary purposes. Examples are questions of order and appeal, suspension of the rules, objection to consideration of a question, etc.

PRIVILEGED MOTIONS: A motion is privileged in the sense that with it, at certain times, goes the distinction of an immediate -- or at least an earlier -- decision in regard to the subject matter to which it relates, rather than to the subject matter of another motion which may have been on the floor.

The Chart on Parliamentary Motions (next page) lists the privileged motions in the order of their precedence. Examples are motions to fix the time to adjourn, or to take a recess.
<table>
<thead>
<tr>
<th>PRIVILEGED MOTIONS</th>
<th>Requires Second</th>
<th>May be Amended</th>
<th>May be Debated</th>
<th>Requires Vote</th>
<th>May be reconsidered</th>
<th>May Interrupt Speaker</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Fix time of next meeting</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Majority</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>2. Adjourn meeting</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>Majority</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>3. Recess</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Majority</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>4. Question of privilege</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Chairman</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>5. Point of information</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-----</td>
<td>N</td>
<td>Y</td>
</tr>
</tbody>
</table>

| SUBSIDIARY MOTIONS              |                |                |                |               |                     |                       |
| 6. Lay on table                  | Y               | N              | N              | Majority      | N                   | N                     |
| 7. Previous question             | Y               | N              | N              | 2/3           | Y                   | N                     |
| 8. Limit debate                  | Y               | Y              | N              | 2/3           | Y                   | N                     |
| 9. Postpone to a certain time    | Y               | Y              | Y              | Majority      | Y                   | N                     |
| 10. Refer to committee           | Y               | Y              | Y              | Majority      | Y                   | N                     |
| 11. Amend                        | Y               | Y              | (1)            | Majority      | Y                   | N                     |
| 12. Postpone indefinitely        | Y               | N              | Y              | Majority      | Y                   | N                     |

| MAIN MOTIONS                    |                |                |                |               |                     |                       |
| 13. Main motion for general     | Y               | Y              | Y              | Majority      | Y                   | N                     |
| business                        |                |                |                |               |                     |                       |
| 14. Take from table             | Y               | N              | N              | Majority      | N                   | N                     |
| 15. Reconsider                  | Y               | N              | (2)            | Majority      | N                   | Y                     |
| 16. Rescind                     | Y               | Y              | Y              | Majority      | Y                   | N                     |
| 17. Make special order of       | N               | N              | N              | 2/3           | -----               | Y                     |
| business                        |                |                |                |               |                     |                       |

| INCIDENTAL MAIN MOTIONS          |                |                |                |               |                     |                       |
| 18. Suspend rules                | Y               | N              | N              | 2/3           | N                   | N                     |
| 19. Withdraw a motion            | N               | N              | N              | Majority      | Y                   | N                     |
| 20. Object to a consideration    | N               | N              | N              | 2/3           | Y                   | Y                     |
| 21. Point of order               | N               | N              | N              | Chairman      | N                   | Y                     |
| 22. Appeal from chairman's       | Y               | N              | Y              | Chairman or   | Y                   | Y                     |
| decision                        |                |                |                | Majority      |                     |                       |
| 23. Division (Verify a voice     | N               | N              | N              |               | Y                   |                       |
| vote.)                          |                |                |                |               |                     |                       |
| 24. Roll Call                   | Y               | N              | N              | Majority      | -----               | Y                     |

(1) Only if the motion to be amended is debatable. (2) Only if the motion to be reconsidered is debatable.
Michigan Planning Legislation
LAND DIVISION ACT
Act 288 of 1967

AN ACT to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts.


Popular name: Plat Act
Popular name: Subdivision Control

The People of the State of Michigan enact:

GENERAL PROVISIONS

560.101 Short title.
Sec. 101. This act shall be known and may be cited as the “land division act”.


Compiler’s note: For transfer of powers and duties of the State Treasurer relative to subdivision control to the Department of Commerce, see E.R.O. No. 1980-1, compiled at § 16.732 of the Michigan Compiled Laws.


Popular name: Plat Act
Popular name: Subdivision Control

560.102 Definitions.
Sec. 102. As used in this act:
(a) “Plat” means a map or chart of a subdivision of land.
(b) “Land” means all land areas occupied by real property.
(c) “Preliminary plat” means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
(d) “Division” means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109. Division does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
(e) “Exempt split” means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in 1 or more parcels of less than 40 acres or the equivalent. For a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
(f) “Subdivide” or “subdivision” means the partitioning or splitting of a parcel or tract of land by the proprietor.
LAND DIVISION ACT

thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this act by sections 108 and 109. “Subdivide” or “subdivision” does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of any applicable local ordinance.

(g) “Parcel” means a continuous area or acreage of land which can be described as provided for in this act.
(h) “Tract” means 2 or more parcels that share a common property line and are under the same ownership.
(i) “Parent parcel” or “parent tract” means a parcel or tract, respectively, lawfully in existence on the effective date of the amending act that added this subdivision.
(j) “Accessible”, in reference to a parcel, means that the parcel meets 1 or both of the following requirements:
    (i) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
    (ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969 and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.
(k) “Development site” means any parcel or lot on which exists or which is intended for building development other than the following:
    (i) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
    (ii) Forestry use involving the planting, management, or harvesting of timber.
(l) “Forty acres or the equivalent” means 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
(m) “Lot” means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
(n) “Outlot”, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.
(o) “Proprietor” means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
(p) “Governing body” means the legislative body of a city or village or the township board of a township.
(q) “Municipality” means a township, city, or village.
(r) “County plat board” means the register of deeds, who shall act as chairperson, the county clerk, who shall act as secretary, and the county treasurer. If the offices of county clerk and register of deeds have been combined, the chairperson of the board of supervisors shall be a member of the plat board and shall act as chairperson. In a county where a board of auditors is authorized by law such board may elect to serve on the county plat board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the state treasurer.
(s) “Public utility” means all persons, firms, corporations, copartnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.
(t) “Caption” means the name by which the plat is legally and commonly known.
(u) “Replat” means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.
(x) “Government survey” means the land surveyed, subdivided and monumented by the United States public land survey.
(y) “Michigan coordinate system” means the system defined in Act No. 9 of the Public Acts of 1964, being sections 54.231 to 54.239 of the Michigan Compiled Laws.

(z) “Alley” means a public or private right of way shown on a plat which provides secondary access to a lot, block, or parcel of land.

(aa) “Health department” means the department of environmental quality, a city health department, a county health department, or a district health department, whichever has jurisdiction.

(bb) “Public sewer” means a sewerage system as defined in section 4101 of part 41 (sewerage systems) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.4101 of the Michigan Compiled Laws.

(cc) “Public water” means a system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

(dd) “Topographical map” means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

(ee) “Flood plain” means that area of land adjoining the channel of a river, stream, water course, lake, or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

|——— | —— |

Popular name: Plat Act
Popular name: Subdivision Control

560.103 Subdivisions of land; surveys and plats, requirements.

Sec. 103. (1) An exempt split is not subject to approval under this act so long as the resulting parcels are accessible. A division is not subject to the platting requirements of this act but subject to the requirements of sections 108 and 109. A subdivision is subject to the platting requirements of this act.

(2) Plats of retracement or boundary surveys made by a department or agency of the United States or of state-owned lands made by a department or agency of the state for the retracement and division of public lands according to the survey instructions issued by the United States department of the interior may be recorded with the register of deeds of the county in which the lands represented on the plats are situated and need not otherwise comply with this act, except that plat size shall be as provided in section 132.

(3) A survey and plat shall be made when any amendment, correction, alteration or revision of a recorded plat is ordered by a circuit court.

(4) Urban renewal plats authorized by the governing body of a municipality as provided in Act No. 344 of the Public Acts of 1945, being sections 125.71 to 125.84 of the Michigan Compiled Laws, shall conform to this act.

|——— | —— |

Popular name: Plat Act
Popular name: Subdivision Control

560.104 Replats; requirements; vacation of original plat.

Sec. 104. A replat of all or any part of a recorded subdivision plat may not be approved or recorded unless proper court action has been taken to vacate the original plat or the specific part thereof, with the following exceptions:

(a) When all the owners of lots which are to be part of the replat agree in writing thereto and record the agreement with the register of deeds, and proof that notice to the abutting property owners has been given by certified mail and the governing body of the municipality in which the land included in the recorded plat is situated, has adopted a resolution or other legislative enactment vacating all areas dedicated to public use within the proposed replat.

(b) Assessors plats made, approved and recorded as provided for in sections 201 to 213.

(c) Urban renewal plats authorized by the governing body of a municipality, as provided in Act No. 344 of the Public Acts of 1945, as amended. Roads, streets, alleys and other public places shall be vacated in accordance with the provisions of law.

|——— | —— |

Popular name: Plat Act
Popular name: Subdivision Control

560.105 Preliminary or final plat; approval; conditions.

LAND DIVISION ACT

Sec. 105. Approval of a preliminary plat, or final plat shall be conditioned upon compliance with all of the following:

(a) The provisions of this act.
(b) Any ordinance or published rules of a municipality or county adopted to carry out the provisions of this act.
(c) Any published rules of a county drain commissioner, county road commission, or county plat board adopted to carry out the provisions of this act.
(d) The rules of the state transportation department relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.
(e) The rules of the department of consumer and industry services for the approval of plats, including forms, certificates of approval, and other required certificates, captioning of plats, and numbering of lots.

(f) The rules of the department of environmental quality for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of environmental quality relating to suitability of groundwater for on-site water supply for subdivisions not served by public water or to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may authorize a city, county, or district health department to carry out the provisions of this act and rules promulgated under this act relating to suitability of groundwater for subdivisions not served by public water or relating to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of environmental quality.

Popular name: Plat Act
Popular name: Subdivision Control
Administrative rules: R 560.101 et seq. and R 560.401 et seq. of the Michigan Administrative Code

560.106 Approving authorities; limitation on powers of approval or rejection.

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

Popular name: Plat Act
Popular name: Subdivision Control

560.107 Preliminary plat; submission, discretion.

Sec. 107. (1) Nothing contained in this act shall prohibit a proprietor from submitting a prepreliminary plat to a governing body for the proprietors information and review.

(2) Nothing contained in this act shall allow a municipality, county, or state agency to require an approval of a preliminary plat or plan other than those provided for in sections 112 to 120.

Popular name: Plat Act
Popular name: Subdivision Control

560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.

Sec. 108. (1) A division is not subject to the platting requirements of this act.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

(3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.
LAND DIVISION ACT

(b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.

(4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.

(5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:
   (a) Not less than 10 years have elapsed since the parcel or tract was recorded.
   (b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:
      (i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.
      (ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.
   (c) The partitioning or splitting satisfies the requirements of section 109.
   (6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).


Popular name: Plat Act

Popular name: Subdivision Control

560.109 Approval or disapproval of proposed division; requirements; exemption from platting requirements; notice of transfer; form; sale of unplatted land; statement contained in deed; ordinance; approval not determination of compliance.

Sec. 109. (1) A municipality shall approve or disapprove a proposed division within 45 days after the filing of a complete application for the proposed division with the assessor or other municipally designated official. However, a municipality with a population of 2,500 or less may enter into an agreement with a county to transfer to the county authority to approve or disapprove a division. An application is complete if it contains information necessary to ascertain whether the requirements of section 108 and this section are met. The assessor or other municipally designated official, or the county official, having authority to approve or disapprove a proposed division, shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval. A complete application for a proposed division shall be approved if, in addition to the requirements of section 108, all of the following requirements are met:

   (a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
   (b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but are not required to include and need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.
   (c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).
   (d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).
   (e) Each resulting parcel is accessible.
   (f) The division meets all of the requirements of section 108.
   (g) Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
   (2) The right to make divisions exempt from the platting requirements of this act under section 108 and this section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to this subsection shall within 45 days give written notice of the transfer to the assessor of the city or township where the property is located on the form
LAND DIVISION ACT

prescribed by the state tax commission under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a. The state tax commission shall revise the form to include substantially the following questions in the mandatory information portion of the form:

(a) "Did the parent parcel or parent tract have any unallocated divisions under the land division act, 1967 PA 288, MCL 560.101 to 560.293? If so, how many?"
(b) "Were any unallocated divisions transferred to the newly created parcel? If so, how many?"
(c) A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of this act under this section and section 108 is proposed to be conveyed. The statement shall be in substantially the following form: "The grantor grants to the grantee the right to make [insert number] division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967." In the absence of a statement conforming to the requirements of this subsection, the right to make divisions under section 108(2), (3), and (4) stays with the remainder of the parent tract or parent parcel retained by the grantor.
(d) All deeds for parcels of unplatted land within the state of Michigan after the effective date of this act shall contain the following statement: "This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act."
(e) The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards in section 109(1)(a), (b), and (c). The ordinance may establish a fee for reviews under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged.
(f) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.


Popular name: Plat Act

Popular name: Subdivision Control

560.109a Parcels less than 1 acre.

Sec. 109a. (1) If a parcel resulting from a division is less than 1 acre in size, a building permit shall not be issued for the parcel unless the parcel has any of the following:
(a) Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g).
(b) Public sewer or city, county, or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under rules described in section 105(g).
(c) The municipality or county approving a proposed division resulting in a parcel less than 1 acre in size and its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in this section. A notice of approval of a proposed division resulting in a parcel of less than 1 acre in size shall include a statement to this effect.
(d) A city, county, or district health department may adopt by regulation a fee for services provided under this section. The fees shall not exceed the reasonable costs of providing the services for which the fees are charged.


Popular name: Plat Act

Popular name: Subdivision Control

560.109b Parcels of 20 or more acres.

Sec. 109b. (1) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval under this act if the parcel or tract is not accessible and 1 of the following applies:
(a) The parcel or tract was in existence on March 31, 1997.
(b) The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.
(c) The proprietor shall provide the purchaser of a parcel resulting from an exempt split or other partitioning or splitting under subsection (1) with the following written statement before closing:
"This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.293."


Popular name: Plat Act
560.111 Preliminary plat; specifications, requirements.
Sec. 111. (1) Before making or submitting a final plat for approval, the proprietor shall make a preliminary plat and submit copies to authorities as provided in sections 111 to 119. A preliminary plat shall show the name, location and position of the subdivision and the subdivision plan and layout in sufficient detail on a topographic map to enable a determination of whether the subdivision meets requirements for lots, streets, roads and highways including drainage and floodplains.
   (2) The preliminary plat shall be drawn to a scale of not more than 200 feet to 1 inch and may be an original drawing or reproduction, on unbacked paper. It shall contain proper identification of the parcel of land to be divided, the name of the plat and proposed division of the land, the name and address of the proprietor and the name, address and seal of the surveyor who prepared it, all legibly printed or typewritten. Additional preliminary land development plans may be made by other qualified persons to assist approving authorities to visualize the type and scope of the development planned.


Popular name: Plat Act
Popular name: Subdivision Control

560.112 Preliminary plat; tentative approval; time limit, extension.
Sec. 112. (1) The proprietor shall submit 4 but not more than 10 copies of the preliminary plat and other data to the clerk of the municipality.
   (2) The governing body, within 90 days from the date of filing, shall tentatively approve and note its approval on the copy of the preliminary plat to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval.
   (3) The governing body may require the submission of other related data as it deems necessary, if the requirement for such data has previously been adopted and published.
   (4) Tentative approval under this section shall confer upon the proprietor for a period of 1 year from date, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the governing body in writing.


Popular name: Plat Act
Popular name: Subdivision Control

560.113 Preliminary plat; county road commissioner's approval or rejection.
Sec. 113. (1) The proprietor shall submit 3 copies of the preliminary plat to the engineer or chairman of the county road commission if the proposed subdivision includes or abuts roads under the commission's jurisdiction.
   (2) The county road commission may also require to be submitted with the preliminary plat a topographic map showing direction of drainage and proposed widths of roads under its jurisdiction or to come under its jurisdiction and private roads in unincorporated areas.
   (3) The county road commission, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.


Popular name: Plat Act
Popular name: Subdivision Control

560.114 Preliminary plat; county drain commissioner's approval or rejection.
Sec. 114. (1) The proprietor shall submit 3 copies of the preliminary plat to the county drain commissioner, if there is a county drain commissioner.
   (2) The county drain commissioner or governing body, if there is no drain commissioner, may require a topographic map showing direction of storm water drainage both within the lands proposed to be subdivided and from the land as subdivided.
3. The county drain commissioner or governing body, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.

Popular name: Plat Act
Popular name: Subdivision Control

560.115 Preliminary plat; state highways department's approval or rejection.
Sec. 115. (1) The proprietor shall submit 3 copies of the preliminary plat to the department of state highways, if any of the proposed subdivision includes or abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right of way of state trunk line highways.
(2) The department of state highways, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.

Popular name: Plat Act
Popular name: Subdivision Control

560.116 Preliminary plat; conservation department's approval or rejection.
Sec. 116. (1) The proprietor shall submit 2 copies of the preliminary plat to the conservation department for information purposes, if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.
(2) The department, within 30 days of receipt of the preliminary plat, shall place the proprietor, the governing body of the municipality and the county plat board on notice in writing if it approves or has any objections or may furnish such information to each as may be helpful or necessary in its opinion to adequately plan the development and secure approval of the final plat.
(3) Copies of such letters shall be sent to the state treasurer.

Popular name: Plat Act
Popular name: Subdivision Control

560.117 Preliminary plat; approval or rejection; fees; disposition of fees.
Sec. 117. (1) The proprietor shall submit 2 copies of the preliminary plat to the department of environmental quality, if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek, or lake. The department of environmental quality, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If the department of environmental quality rejects the preliminary plat, the department shall give the reasons for rejection and requirements for approval in writing to the proprietor. The determination of a floodplain area shall be based on rules specified in section 105(f).
(2) The preliminary plat submitted to the department of environmental quality under subsection (1) shall be accompanied by a fee of $500.00 to cover the administrative cost of the department's preliminary plat review. If the department of environmental quality determines that engineering computations are required to establish the limits of the floodplain on a preliminary plat, the department shall assess an additional fee of $1,500.00 to cover the department's cost of establishing those limits.
(3) The department of environmental quality shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30113.

Popular name: Plat Act
Popular name: Subdivision Control

560.118 Preliminary plat; health department's approval or rejection.
Sec. 118. (1) The proprietor shall submit 3 copies of the preliminary plat to the health department having jurisdiction, if public water and public sewers are not available and accessible to the land proposed to be subdivided.
(2) The health department, within 30 days of receipt of the preliminary plat, shall approve it and note its approval.
on the copy to be returned to the proprietor or reject all or such portion of the proposed subdivision that is not suitable. If rejected, it shall give its reasons for rejection and requirements for approval to the proprietor and governing body in writing.


**Popular name:** Plat Act
**Popular name:** Subdivision Control

### 560.119 Preliminary plat; submission to county plat board and public utilities.

Sec. 119. The proprietor shall submit 2 copies of the preliminary plat to the county plat board and to the public utilities serving the area for informational purposes.


**Popular name:** Plat Act
**Popular name:** Subdivision Control

### 560.120 Final approval; proprietor's rights; procedure.

Sec. 120. (1) Final approval of the preliminary plat approval under this section shall confer upon the proprietor for a period of 2 years from date of approval, the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The 2-year period may be extended if applied for by the proprietor and granted by the governing body in writing. Written notice of the extension shall be sent by the governing body to the other approving authorities. The proprietor shall:

(a) Submit a preliminary plat to all authorities as required by sections 112 to 119.

(b) Submit a list of all such authorities to the clerk of the governing body of the municipality, certifying that the list shows all authorities as required by sections 112 to 119.

(c) Submit all approved copies to the clerk of the governing body, after all necessary approvals have been secured.

(2) The governing body of the municipality, after receipt of the necessary approved copies of the preliminary plat, shall:

(a) Consider and review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat.

(b) Instruct the clerk to promptly notify the proprietor of approval or rejection in writing, and if rejected to give the reasons.

(c) Instruct the clerk to note all proceedings in the minutes of the meeting which minutes shall be open for inspection.


**Popular name:** Plat Act
**Popular name:** Subdivision Control

### SURVEYS

### 560.125 Survey requirements; monuments.

Sec. 125. (1) For every subdivision of land there shall be a survey complying with the requirements of this section and section 126.

(2) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(3) All monuments used shall be made of solid iron or steel bars at least 1/2 inch in diameter and 36 inches long and completely encased in concrete at least 4 inches in diameter.

(4) Monuments shall be located in the ground at all angles in the boundaries of the subdivision; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the plat and at the intersection of alleys with the boundaries of the subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(5) If the required location of monument is in an inaccessible place, or where the locating of a monument would
LAND DIVISION ACT

be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
(6) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2 inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches.
(7) All required monuments shall be placed flush with the ground where practicable.
(8) All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2 inch in diameter, or other approved markers.
(9) The governing body of the municipality may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the clerk of the municipality cash or a certified check, or irrevocable bank letter of credit running to the municipality, whichever the proprietor selects, in an amount not less than $25.00 per monument and not less than $100.00 in total, except that lot corner markers shall be at the rate of not less than $10.00 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults the governing body shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

Popular name: Plat Act
Popular name: Subdivision Control

560.126 Survey accuracy.
Sec. 126. (1) The survey of all subdivisions shall be performed by a surveyor.
(2) The relative error of closure of the surveyed land shall be less than the ratio of 1 part in 5,000.
(3) Bearings shall be expressed in relation to the true meridian, or a previously established meridian or bearing and a statement by the surveyor on the plat stating the source of information in obtaining the bearings outlined.

Popular name: Plat Act
Popular name: Subdivision Control

FINAL PLATS

560.131 General survey requirements; date of expiration of approval.
Sec. 131. (1) Following final approval of the preliminary plat by the governing body, the proprietor shall cause a survey and 5 true plats thereof to be made by a surveyor.
(2) All approvals made on the preliminary plat shall expire as provided in section 120.
(3) A final plat shall not be accepted after the date of expiration of the preliminary plat approval.
(4) A final plat received by the state treasurer more than 1 year following the date of approval of the city or county treasurer shall be returned to the treasurer who shall make a new certificate currently dated, relative to paid or unpaid taxes, special assessments and tax liens or titles.
(5) All final plats of subdivided land shall comply with the provisions of sections 131 to 151.

Popular name: Plat Act
Popular name: Subdivision Control

560.132 Plats; specifications.
Sec. 132. All plats shall be legibly prepared according to the following general requirements:
(a) On 1 or more sheets, 18 inches wide by 24 inches long in size, leaving a 1 1/2 inch binding margin and a 1/2 inch margin on all other sides.
(b) Of an approved material, according to published specifications of the department of the treasury.
(c) Drawn or printed with nonfading black ink true to an adequate and plainly readable scale of not more than 100 feet to an inch.
(d) The name of the plat shall not duplicate the name of any plat previously recorded in the same county unless it is an addition contiguous to the same, or which is a part of the same previously approved preliminary plat under section 120. The first subdivision bearing the name may be designated as number 1, and all additions to it shall be
LAND DIVISION ACT

consecutively numbered, beginning with number 2.
(e) Lots shall be numbered consecutively beginning with lot number 1 in the first subdivision bearing the name and continuing in consecutive order throughout the several additions.
(f) A north point shall be properly located thereon.


Popular name: Plat Act
Popular name: Subdivision Control

560.133 Final plat; caption.
Sec. 133. The caption of the final plat shall be printed at the top of the plat in large, bold letters, and shall include:
(a) Name of the plat.
(b) Part of section, number of section, town and range, municipality and county.
(c) If a private claim, the number of the claim and the municipality in which the land is situated.
(d) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and municipality in which the land is situated.


Popular name: Plat Act
Popular name: Subdivision Control

560.134 Final plat; description of land.
Sec. 134. There shall be typewritten or printed on the final plat, a full and detailed description of the land embraced in the subdivision by distances and bearings. The description shall also include:
(a) The caption of the plat.
(b) If a private claim, the number of the claim and the municipality in which the land is situated.
(c) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and the municipality in which it is situated.
(d) The name of the original plat and any part of it replatted.
(e) A description by distances and bearings of each excepted parcel.
(f) The number of lots, the number of outlots and the number of private parks.
(g) The intermediate traverse line, if one is required on the plat.
(h) The area within the existing right of way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land.


Popular name: Plat Act
Popular name: Subdivision Control

560.135 Map and engineering requirements.
Sec. 135. The map of the subdivision, as drawn on the final plat shall comply with sections 135 to 141. It shall contain sufficient information to completely define, for the purpose of a resurvey, the location of any boundary, corner or angle point within the plat. All land lying within the boundaries of the plat shall be shown thereon in such a manner that title to the area may be clearly established as to whether dedicated to public use or reserved to private use.


Popular name: Plat Act
Popular name: Subdivision Control

560.136 Final plat; exterior boundaries; requirements, specifications.
Sec. 136. The exterior boundaries of the subdivision as drawn on the plat shall include and correctly show:
(a) The land surveyed and divided, with reference to a corner or corners established in the government survey and indicated by distances and bearings. The Michigan coordinate system may also be used for referencing such government survey points.
(b) The exact length and bearings thereof.
(c) Where the exterior boundary lines show bearings and distances which vary from those recorded in abutting plats the following note shall be placed along such lines, “recorded as (show recorded bearing or distance or both)”.
(d) The area within the existing right of way of any abutting street, county road or state trunk line highway, if
such area has not previously been dedicated to public use and if it is the proprietor's land.

(e) When the subdivision is bounded by an irregular shoreline of a body of water, the bearings and distances of a closing intermediate traverse, extending across the plat so that it intersects the sidelines of the shore lots; the dimensions of the sidelines of the shore lots from the street line to the traverse line, and the distance from the traverse line to the water's edge as found at the time of the survey; distances along the traverse line between its intersections with the sidelines of the lots; the location of monuments at all angle points of the intermediate traverse. All lots extending to the water's edge shall be noted accordingly on the plat. If the proprietor intends to retain possession of the area between the intermediate traverse and the water's edge, a statement to that effect shall be noted on the plat.

(f) The location of all boundary monuments established in the field in their proper places.

(g) When any part of the land being subdivided is not included in the government survey, boundaries shall be indicated by distances and bearings and related to a government survey corner or if in a private claim, to a private claim corner.


Popular name: Plat Act
Popular name: Subdivision Control

560.137 Final plat; public and private grounds, streets, roads and alleys.
Sec. 137. All public or private grounds, streets, roads and alleys included in the plat shall be shown as follows:

(a) All public or private commons, parks and other grounds except streets and alleys, by their boundaries, bearings and distances and names.

(b) All streets and roads by their bearings, widths and names.

(c) All streets, roads or alleys not dedicated to public use shall be marked “private” and named.

(d) All curved portions of streets, roads or alleys shall be defined by curve data including points of curvature, points of tangency, points of compound curvature, radii of curves, central angles and the length and bearing of its long chord.

(e) Curve data may be shown by a curve data chart or table.


Popular name: Plat Act
Popular name: Subdivision Control

560.138 Final plat; flood plains.
Sec. 138. When any part of a subdivision lies within or abuts a floodplain area, the plat shall include and show the following:

(a) The floodplain shall be shown within a contour line, established by the water resources commission, department of conservation.

(b) The contour line shall intersect the side lines of the lots.

(c) The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.

(d) The floodplain area shall be clearly labeled on the plat with the words “floodplain area”.


Popular name: Plat Act
Popular name: Subdivision Control

560.139 Public utilities; easements.
Sec. 139. All public utility easements included in the plat shall be shown as follows:

(a) By their widths and relationship to the lot or street lines.

(b) As at least 12 feet wide where the rear lines of lots are contiguous.

(c) As at least 6 feet wide if a lot has no adjoining subdivisions.


Popular name: Plat Act
Popular name: Subdivision Control

560.140 Lots and outlots; description.
Sec. 140. All lots and outlots included in the plat shall be shown as follows:

(a) All lots numbered consecutively.
LAND DIVISION ACT

(b) All outlots lettered in alphabetical order.
(c) The length and bearing of each side lot line.
(d) The bearing of each front and rear lot line, except as otherwise provided in this section.
(e) A note showing the front line of any lot fronting on 2 or more streets or a body of water except for lots served by public sewers and public water or available and accessible thereto.
(f) The bearings and depths at each end of a tier of lots comprised of rectangles or parallelograms.
(g) The width of lots at each end of a series of lots when the front and back lines are parallel. The intermediate lots may be marked with dittos.
(h) The distance at the time of the survey from the traverse line to the water's edge.
(i) All curved boundaries shall be shown by curve data as required for public grounds, streets, roads and alleys in section 137.
(j) If a replat, outlines, numbers and other identification of lots of the previous survey shall be shown by dashed lines, figures or letters.


Popular name: Plat Act
Popular name: Subdivision Control

560.141 Improvements.

Sec. 141. When the plat includes or abuts certain improvements other than streets, alleys, roads or highways, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters, the included or abutting portions of such proposed improvement shall be shown on the plat.


Popular name: Plat Act
Popular name: Subdivision Control

560.142 Certificate required for recording.

Sec. 142. To entitle a final plat to be recorded, the following certificates, in the form prescribed by the state treasurer, lettered or printed legibly with black, durable ink or typed legibly with black ribbon shall appear on it and the certificates shall contain the statements and information and shall be signed and dated as prescribed in sections 141 to 150:
(a) A surveyor's certificate of compliance with the statute.
(b) A certificate of the proprietor submitting the plat.
(c) A certificate of taxes by the treasurer of the county in which the plat is situated, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.
(d) A certificate of taxes signed by the treasurer of the municipality in which the plat is located if the municipality does not return delinquent taxes to the state treasurer, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.
(e) A certificate of approval of the county drain commissioner, if there is a county drain commissioner.
(f) A certificate of approval of the board of county road commissioners, if public streets and roads shown on the plat are under its jurisdiction or to come under its jurisdiction and if any private streets or roads shown on the plat are in an unincorporated area.
(g) A certificate of approval of the governing body of the municipality. The certificate of the governing body of the municipality may not be placed on the plat unless the proprietor has deposited with the clerk both the filing and recording fee required by section 241 and the fee permitted by section 246 by the municipality for review and approval of a plat.
(h) A certificate of approval of the county plat board. The certificate may not be placed on the plat unless the filing and recording fee required by section 241 has been received by the clerk of the county plat board.
(i) A certificate of approval of the state highway commission when the subdivision includes or abuts state trunk line highways.
(j) A certificate of approval of the state treasurer. The certificate of the state treasurer may not be placed on the plat unless the portion of the filing and recording fee due the state as provided by section 241 has been received by him.


Popular name: Plat Act
LAND DIVISION ACT

560.143 Surveyor's certificate.
Sec. 143. The certificate of the surveyor who surveyed, divided and mapped the land; and if a firm of surveyors also by a partner or principal officer, shall give the following information, which shall have the same force and effect as an affidavit:

(a) By whose direction he made the survey, subdivision and plat of the land described on the plat.
(b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and the subdivision of it.
(c) A statement that he has prepared the description of the land shown on the plat and that he certifies to its correctness.
(d) A statement that he has caused all of the monuments shown on the plat to be located in the ground, or that the required cash, certified check or irrevocable bank letter of credit has been deposited with the clerk of the municipality by the proprietor.
(e) A statement that the accuracy and closure of survey are within the limits required by section 126.
(f) A statement that the bearings shown on the plat are expressed as required by section 126.

Popular name: Plat Act
Popular name: Subdivision Control

560.144 Proprietor's certificate.
Sec. 144. (1) The proprietor's certificate on the plat shall include the following:

(a) The caption of the plat.
(b) A statement that the proprietor has caused the land described on the plat to be surveyed, divided, monumented, mapped, and dedicated as shown on the plat.
(c) A statement that the streets, alleys, parks, and other places shown on it that are usually public are dedicated to the use of the public.
(d) A statement that all public utility easements are private easements and that all other easements are reserved to the uses shown on the plat.
(e) The name of each street, park, or other place that is usually public and that is intended to be reserved to other than public use, and the character and purpose of that use.
(f) A statement that the plat includes all land to the water's edge.

(2) The proprietor's certificate shall be signed by the following, and each signature shall be acknowledged as deeds conveying lands are required to be acknowledged:

(a) All persons holding the title by deed of the lands.
(b) All persons holding any other title of record.
(c) All persons holding title as mortgagee or vendee under land contract or who are in possession but are not renters.
(d) The spouses of persons named in subdivisions (a), (b), and (c).

Popular name: Plat Act
Popular name: Subdivision Control

560.145 County treasurer's certificate.
Sec. 145. (1) A certificate shall be signed and dated by the county treasurer relative to paid or unpaid taxes, special assessments and tax liens or titles, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.

(2) The certificate shall be signed and dated by the treasurer of the municipality, if the municipality does not return delinquent taxes to the state treasurer, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.

Popular name: Plat Act
Popular name: Subdivision Control

560.146 County drain commissioner's certificate.
Sec. 146. A certificate shall be signed and dated by the drain commissioner or where there is no drain commissioner, by the county drain commissioner.
LAND DIVISION ACT

commissioner, the body having jurisdiction, signifying that the provisions of section 192 have been met and that the plat meets his approval.

Popular name: Plat Act
Popular name: Subdivision Control

560.147 County road commissioner's certificate.
Sec. 147. (1) A certificate shall be signed by the majority of the board of county road commissioners.
(2) The certificate shall show the date on which the board met and approved the plat and the date the certificate was placed on the plat.
(3) The certificate shall signify that:
(a) The plat has been reviewed and conforms to the requirements of this act and the board's published rules and regulations relative to streets, alleys, roads and highways under its jurisdiction.
(b) The plat has the board's approval.
Popular name: Plat Act
Popular name: Subdivision Control

560.148 Municipality governing board's certificate.
Sec. 148. (1) A certificate shall be signed by the clerk of the governing body of the municipality signifying the approval of the plat by the governing body which shall show the date of the meeting at which the approval was made and the date the certificate was signed by the clerk.
(2) The certificate shall include a statement that the plat was reviewed by the governing body or that the review was made in part by persons authorized by the governing body and that the plat is in conformance with all applicable provisions of the act.
(3) If a copy of the preliminary plat was required to be approved by the health department, a statement to the effect that such approval was made and the name of the health department and the date of its approval shall be included.
(4) If the minimum lot width and area prescribed in this act has been waived and the subdivision is served by public sewers and public water or is accessible thereto, the certificate shall so state and shall also state that the municipality has legally adopted zoning and subdivision control ordinances which specify lot widths and areas.
(5) If there is no county drain commissioner, a statement that the plat is in compliance with the provisions of section 192.
Popular name: Plat Act
Popular name: Subdivision Control

560.149 County plat board's certificate.
Sec. 149. (1) A certificate shall be signed and dated by the majority of the county plat board, signifying its approval of the plat.
(2) The certificate shall include a statement that the plat was reviewed for conformance to all applicable provisions of this act by the county plat board, by the county plat engineer, or both.
Popular name: Plat Act
Popular name: Subdivision Control

560.150 State highway commission's certificate.
Sec. 150. (1) A certificate shall be signed and dated by the state highway commission or by an official of the department of state highways, authorized by the commission to certify its approval on plats.
(2) The certificate shall signify that:
(a) The plat has been reviewed and conforms to the requirements of this act and the commission's published rules and regulations relative to streets, roads and highways under its jurisdiction.
(b) The plat has the commission's approval.
Popular name: Plat Act
Popular name: Subdivision Control
560.151 State treasurer's certificate.
Sec. 151. (1) A certificate shall be signed and dated by the state treasurer, or may be signed and dated for him by an officer of the department of treasury, if authorized by the state treasurer.
(2) The certificate shall signify that:
(a) The plat conforms, in his opinion, to all of the requirements of this act and to the published rules and regulations of the department of treasury, relative to plats.
(b) The plat has the state treasurer's approval.
Popular name: Plat Act
Popular name: Subdivision Control

560.161 Approval; general requirements.
Sec. 161. The final plat shall be submitted in accordance with the procedure prescribed in sections 162 to 173.
Popular name: Plat Act
Popular name: Subdivision Control

560.162 Drain commissioner; number of copies.
Sec. 162. The proprietor shall submit 5 true copies of the final plat to the drain commissioner, if his approval was required on the preliminary plat, or 6 true copies if the proprietor requests an additional copy to be returned to him.
Popular name: Plat Act
Popular name: Subdivision Control

560.163 Drain commissioner; approval procedure.
Sec. 163. Within 10 days, the drain commissioner shall:
(a) Certify his approval on all copies of the plat and return it to the proprietor; or
(b) Reject the plat, give his reasons in writing, and return it to the proprietor.
(c) Send a copy of the letter of rejection to the clerk of the governing body.
Popular name: Plat Act
Popular name: Subdivision Control

560.164 Board of county road commissioners; submission of plat.
Sec. 164. When the plat has been approved by the drain commissioner, the proprietor shall submit all copies of the plat to the board of county road commissioners, when their approval was required on the preliminary plat.
Popular name: Plat Act
Popular name: Subdivision Control

560.165 Board of county road commissioners; approval procedure.
Sec. 165. Within 15 days, a majority of the board of county road commissioners shall:
(a) Certify their approval on all copies of the plat and return it to the proprietor; or
(b) Reject the plat, give their reasons in writing, and return it to the proprietor.
(c) Send a copy of the letter of rejection to the clerk of the governing body.
Popular name: Plat Act
Popular name: Subdivision Control

560.166 Municipality governing body; submission of plat.
Sec. 166. When the plat has been approved by the drain commissioner and the county road commissioners, the proprietor shall submit all copies of the plat to the clerk of the governing body of the municipality, together with the filing fee required by section 241.
Popular name: Plat Act
Popular name: Subdivision Control
560.167 Municipality governing body; approval procedure.
   Sec. 167. At its next regular meeting, or at a meeting called within 20 days of the date of submission, the
governing body shall:
   (a) Approve the plat if it conforms to all of the provisions of this act and instruct the clerk to certify on the plat to
the governing body's approval, showing the date of the governing body's approval, the approval of the health
department, when required and the date thereof as shown on the approved preliminary plat; or
   (b) Reject the plat, instruct the clerk to give the reasons in writing as set forth in the minutes of the meeting, and
return the plat to the proprietor.
   (c) Instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection.
   Popular name: Plat Act
   Popular name: Subdivision Control

560.168 Transmission to county plat board; procedure of board.
   Sec. 168. (1) When approved by the governing body, the clerk shall promptly forward all copies of the plat to the
clerk of the county plat board, together with the filing and recording fee.
   (2) Within 15 days of the date of receipt of the plat, a majority of the county plat board shall:
   (a) Review the plat for conformance to all provisions of the act and certify their approval on all copies; or
   (b) Reject the plat and notify the proprietor of the reasons in writing when returning the plat, also sending a copy
of the letter to the clerk of the governing body.
   Popular name: Plat Act
   Popular name: Subdivision Control

560.169 Forwarding approval and plat copies to state administrator.
   Sec. 169. Upon approval of the plat by a majority of the county plat board, the clerk of the board shall forward it
with all copies of the plat to the state administrator.
   Popular name: Plat Act
   Popular name: Subdivision Control

   Compiler's note: The repealed section pertained to forwarding approved plat to state administration.
   Popular name: Plat Act
   Popular name: Subdivision Control

560.170 State treasurer; procedure upon receipt of plat.
   Sec. 170. (1) Within 15 days after receipt of the plat from the county plat board, the state treasurer shall
promptly forward the plat to the state highway commission, if the plat includes or abuts a state trunk line highway.
   (2) Within 10 days of receipt of the plat the state highway commission shall:
   (a) Certify its approval on the plat and return it to the state treasurer; or
   (b) Reject the plat and notify the proprietor directly, giving the reasons in writing, returning the plat to the state
treasurer with a copy of the letter of rejection.
   Popular name: Plat Act
   Popular name: Subdivision Control

560.171 State treasurer; plat approval or rejection; recording.
   Sec. 171. Within 15 days after receipt of the plat, or within 25 days if the plat requires the approval of the state
highway commission, the state treasurer shall:
   (a) Review the plat and when it conforms to all of the provisions of this act, he shall approve it and send 1 copy
of the plat to the register of deeds for recording; or
   (b) Reject the plat and notify the proprietor in writing of the reasons.
   Popular name: Plat Act
   Popular name: Subdivision Control
560.172 Register of deeds; recordings; notice to state treasurer.
Sec. 172. Upon receipt of the plat from the state treasurer the register of deeds shall:
(a) Certify on the plat the time of recording and the book and page where recorded. He shall not accept a plat for recording unless it is sent to him by the state treasurer and bears his certificate of approval.
(b) Note on the record the time when made.
(c) Record the book and page number of any building restrictions noted on or filed with the plat.
(d) Certify and promptly forward to the state treasurer on a form specified by him that the plat has been recorded.
Popular name: Plat Act
Popular name: Subdivision Control

560.173 State treasurer; procedure following notice of recording.
Sec. 173. When notification of recording of 1 copy of plat has been received by the state treasurer, he shall:
(a) Transcribe the certificate of recording on all other copies.
(b) Retain 1 copy for his files.
(c) Mail 1 copy of the plat to the county treasurer, 1 copy to the clerk of the municipality in which the plat is located, 1 copy to the county road commission or the city planning commission, and 1 copy to the proprietor if he has submitted an extra copy for certification and mailing.
Popular name: Plat Act
Popular name: Subdivision Control

560.181 Final plat; streets, alleys, roads and highways; general requirements.
Sec. 181. All streets, alleys, roads and highways shown, or required to be shown on a plat shall comply with the requirements of sections 181 to 185 as a condition of approval of the final plat.
Popular name: Plat Act
Popular name: Subdivision Control

560.182 Final plat; streets, alleys and roads; municipal requirements.
Sec. 182. (1) The governing body of a municipality in which the subdivision is situated may require the following as a condition of approval of final plat, for all public and private streets, alleys and roads in its jurisdiction:
(a) Conformance to the general plan, width and location requirements that it may have adopted and published, and greater width than shown on a county or state plan, but may not require conformance to a municipal plan that conflicts with a general plan adopted by the county or state for the location and width of certain streets, roads and highways.
(b) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.
(c) Installation of bridges and culverts where it deems necessary.
(d) Submission of complete plans for grading, drainage and construction to be prepared and sealed by a civil engineer registered in the state.
(e) Completion of all required improvements relative to streets, alleys and roads or a deposit by the proprietor with the clerk of the municipality in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the governing body, in an amount sufficient to insure completion within the time specified.
(2) As a condition of approval of the plat, the governing body may require a deposit to be made in the same manner as provided in subdivision (e) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.
(3) The governing body shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.
(4) The governing body shall:
(a) Reject a plat which is isolated from or which isolates other lands from existing public streets, unless suitable access is provided.
(b) Reject a plat showing a street or road name duplicating one already in use in the municipality, except in continuing a street or road.
LAND DIVISION ACT

(c) Reject a plat showing the name of a new street, alley or road that is so similar to the one already in existence in the municipality that permitting such use in the subdivision may be confusing for purposes of assessing, mail delivery and locating by the public.


Popular name: Plat Act

Popular name: Subdivision Control

560.183 Final plat; highways, streets and roads; county road commission requirements.

Sec. 183. (1) The county road commission may require the following as a condition of approval of final plat for all highways, streets and alleys in its jurisdiction or to come under its jurisdiction and also for all private roads in unincorporated areas:

(a) Conformance to the general plan, width and location requirements that the board may have adopted and published.

(b) Adequate provision for traffic safety in laying out drives which enter county roads and streets, as provided in the board's current published construction standards.

(c) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.

(d) Submission of complete plans for grading, drainage and construction, to be prepared and sealed by a civil engineer registered in the state.

(e) Installation of bridges, culverts and drainage structures where it deems necessary.

(f) Completion of all required improvements relative to streets, alleys and roads, or a deposit by the proprietor with the board in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the board, in an amount sufficient to insure completion within the time specified.

(2) As a condition of approval of the final plat, the board may require a deposit to be made in the same manner as provided in subdivision (f) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.

(3) The board shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(4) The board shall reject a final plat isolating lands from existing public streets or roads, unless suitable access is provided, and shall also require that such access be granted by easement or dedicated to public use.


Popular name: Plat Act

Popular name: Subdivision Control

560.184 State highways; dedication; other highways and streets.

Sec. 184. (1) The department of state highways may require, where a plat abuts a state trunk line highway, if the existing right of way was not previously dedicated to public use or acquired in fee simple, that there be included within the plat boundary and description the area within the existing right of way and that such area be dedicated to public use if it is the proprietor's land. The department of state highways may also require the following as a condition of approval for highways and streets shown on the final plat:

(a) Conformance in width and location to the plan on file at its main and district offices for state trunk line highways.

(b) Adequate provision for traffic safety in laying out roads, streets and alleys which enter state trunk line highways, as provided in the department's then currently published standards and specifications.

(c) That those portions of connecting streets and roads within state trunk line highway right of way be graded and surfaced in accordance with the department's then currently published standards and specifications.

(d) Completion of all required improvements, or a deposit by the proprietor with the department in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the department, in an amount sufficient to insure completion of all required improvements within the time specified.

(2) Following approval of the final plat, the department may require a deposit to be made in the same manner as provided in subdivision (d) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements. If a cash deposit is required, the department shall rebate to the proprietor, as the work progresses, an amount of cash equal to the ratio of the work completed to the entire project.
560.186 Final plat; lots and outlots; waiver; applicability of subsection (3); maintaining recorded plat.

Sec. 186. (1) Except as otherwise provided in this section, as a condition of approval of the final plat, all lots and outlots subdivided as defined in section 102 shall comply with all of the following:

(a) Lots shall be numbered consecutively. If more than 1 subdivision is intended to be known by the same name or caption, the lots in those subdivisions shall be numbered consecutively throughout the several subdivisions bearing the same name.

(b) A residential lot shall not be less than 65 feet wide at the distance of 25 feet from its front line. If a lot diminishes in width from front to rear, it shall not be less than 65 feet wide at a distance of 50 feet from its front line.

(c) A residential lot shall not have an area of less than 12,000 square feet.

(d) If required by the governing body outlots designated on the plat shall be of a size, extent, and location that will not impair the intent of this act or any applicable municipal rules, regulations or policies for land development adopted and published by the governing body.

(e) Each lot and outlot shown on a plat shall have direct access to a street or road or assured permanent access is provided for in accordance with a local subdivision control ordinance or a zoning ordinance with subdivision control provisions.

(2) Minimum width and area requirements provided for in subsection (1) for residential lots may be waived in any subdivision if connection to a public water and a public sewer system is available and accessible or if the proprietor before approval of the plat posts security with the clerk of the municipality as provided in section 182, and if the municipality in which the subdivision is proposed has legally adopted zoning and subdivision control ordinances that include minimum lot width and lot area provisions for residential buildings.

(3) The minimum width and area requirements provided for in subsection (1) for a residential lot may be waived if all of the following requirements are met:

(a) The residential lot has a public sewer system available and accessible and the sewer system will serve that residential lot.

(b) The residential lot consists of an area of not less than 7,200 square feet.

(c) The municipality in which the subdivision is proposed has legally adopted zoning and subdivision control ordinances that include minimum lot width and lot area provisions for residential buildings.

(d) The ground water supply on that residential lot meets or exceeds the water supply rules of the department of public health for subdivisions not served by public water.

(e) Except for a plat approved pursuant to subsection (5), the plat for the proposed subdivision in which the residential lot is located is submitted to the state for final plat approval before January 1, 1993.

(4) Subsection (3) does not apply to a final plat approved after December 31, 1994.

(5) Notwithstanding subsection (4), a waiver shall be granted under subsection (3) for a plat that meets the criteria in subsection (3)(a) through (d) and is contiguous to and, since September 1, 1992 has been owned by the same person as a plat that has received a waiver under subsection (3).

(6) The register of deeds shall maintain the recorded plat pursuant to section 243.


560.188 Improvements.

Sec. 188. (1) If the subdivision includes or abuts certain improvements other than streets and alleys, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters and such improvements are not in existence at the time of consideration by the governing body of the municipality, it may require, as a condition of approval of the final plat, the proprietor to enter into an agreement to construct such improvements within a reasonable time.

(2) The governing body may require a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or surety bond acceptable to the municipality, covering the estimated cost of construction, to be deposited with the clerk of the municipality to insure the faithful performance of the agreement. Outlots or parks
used as buffer strips, if between the boundary of the subdivision and such improvements, shall not alter the requirements of this section.

(3) Any municipality may provide by ordinance for the installation of other improvements in addition to those required by this act. The governing body of the municipality, as a condition of approval of the plat, may require the proprietor to enter into an agreement, as provided in this section.

Popular name: Plat Act
Popular name: Subdivision Control

560.190 Public utility easements.

Sec. 190. The proprietor shall provide public utility easements in accordance with the provisions of section 139. The following shall apply to all public utility easements included in a subdivision:

(a) Easements intended for use of public utilities shall not be deemed to be dedicated to the public but shall be private easements for public utilities and shall be equitably shared among such utilities.

(b) The public utilities first using an easement shall be reimbursed by later users for all rearrangement or relocation costs.

(c) Permanent structures may not be erected within easement limits by the owner of the fee but he shall have the right to make any other use of the land not inconsistent with the rights of public utilities, or the other uses as noted on the plat.

(d) The public utilities shall have the right to trim or remove trees that interfere with their use of easements.

(e) Nothing in this act shall be construed to limit any regulatory powers possessed by municipalities with respect to public utilities.

Popular name: Plat Act
Popular name: Subdivision Control

560.192 Storm water drainage requirements as condition of final plat approval.

Sec. 192. The county drain commissioner or the governing body of the municipality in which the subdivision is situated, whichever has jurisdiction, shall require the following as a condition of approval of the final plat:

(a) That the proprietor provide for adequate storm water facilities within the lands proposed for platting and outlets thereto.

(b) If adequate storm water facilities within the land proposed for platting are not installed before approval of the final plat, the proprietor shall enter into an agreement with the governing body or county drain commissioner and shall post a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or a surety bond acceptable to the approving authority, in an amount sufficient for the faithful performance of the agreement. A rebate shall be made to the proprietor, as the work progresses, of amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(c) The county drain commissioner, or where there is no drain commissioner the body having jurisdiction shall require the proprietor at his or her expense to establish a county or intercounty drain according to the procedure provided in Act No. 40 of the Public Acts of 1966, as amended, being sections 280.1 to 280.630 of the Michigan Compiled Laws, if deemed necessary to insure adequate maintenance of storm water outlet facilities.

(d) That the proprietor provide adequate storm water retention basins where deemed necessary for all or a specified part of the lands proposed for platting and, if approved by the municipality in which these lands are located, that the municipality assume the cost of operation and maintenance of the retention basins.

Popular name: Plat Act
Popular name: Subdivision Control

560.192a Operation and maintenance of retention basins; annual appropriation; creation of special assessment district; establishment of boundaries; hearing on creation of district; duties of governing body creating district; hearing on objections to cost, roll, or spreading of assessment; manner and time assessments due, collected, and returned; notice of hearing; exclusion.

Sec. 192a. (1) If approval of the final plat was conditioned pursuant to section 192 upon the operation and maintenance of retention basins for all or a portion of the area encompassed by the final plat, the cost of which may be defrayed by special assessments against the property benefited by the retention basins, the municipality in which
this area is located may provide annually for the appropriation of funds for this purpose and create a special
assessment district pursuant to subsection (2).

(2) The governing body of a municipality electing to defray the cost of operating and maintaining a retention
basin by means of a special assessment shall establish, by resolution, the boundaries of the special assessment
district and fix a day for a hearing on the question of creation of the special assessment district and on defraying
the cost of operating and maintaining a retention basin by special assessment on the property benefited thereby.

(3) If, after the hearing conducted pursuant to subsection (2), a special assessment district is created, the
governing body creating the district shall determine the annual cost of the operation and maintenance of the
retention basin, determine the annual special assessment levy, prepare a special assessment roll, and direct the
spread of the assessment levy on all property in the district. Before approval of the special assessment roll the
governing body shall hold a hearing on objections to the cost, roll, or spreading of the special assessment on the
roll. After the hearing, the governing body, at the same or a subsequent meeting, shall confirm or amend, or revise
and then confirm, the cost projections on which the roll was developed and the spread of special assessments
pursuant to this cost, and the special assessment roll.

(4) Special assessments imposed pursuant to this section shall become due, be collected, and be returned for
nonpayment in the same manner and at the same time as ad valorem property tax levies of the municipality
imposing the special assessment.

(5) Notice for any hearing held or required pursuant to this act shall be given pursuant to Act No. 162 of the
Public Acts of 1962, being sections 211.741 to 211.745 of the Michigan Compiled Laws.

(6) Any property encompassed by the final plat for which adequate storm water facilities have been provided or
extended to include, shall be excluded from a special assessment district created under this act.


Popular name: Plat Act

Popular name: Subdivision Control

560.194 Flood plains; prohibit occupancy; alterations.

Sec. 194. If any part of a proposed subdivision lies within the floodplain of a river, stream, creek or lake,
approval of the final plat shall be conditioned on the following:

(a) No buildings for residential purposes and occupancy shall be located on any portion of a lot lying within a
floodplain, unless approved in accordance with the rules of the water resources commission of the department of
conservation.

(b) Restrictive deed covenants shall be filed and recorded with the final plat that the floodplain area will be left
essentially in its natural state.

(c) The natural floodplain may be altered if its original discharge capacity is preserved and the stream flow is not
revised so as to affect the riparian rights of other owners.


Popular name: Plat Act

Popular name: Subdivision Control

560.196 Subdivision names; consecutive numbering of additions.

Sec. 196. The following shall apply to all subdivisions as a condition of approval:

(a) The name of a subdivision as included in the caption of the plat shall not use the name of a previously
recorded subdivision within the same county unless it is an addition thereto.

(b) The first subdivision bearing the name may be numbered 1 and all additions shall be numbered consecutively
beginning with number 2.

(c) A plat duplicating the name of any existing subdivision within the same county shall be rejected by the
governing body or county plat board.

(d) The governing body or county plat board may also reject plats submitted with subdivision names so closely
approximating previously recorded plats that such use might easily lead to misunderstanding or confusion for
purposes such as assessment and description of land.


Popular name: Plat Act

Popular name: Subdivision Control

560.198 Correction of errors; surveyor's affidavit.

Sec. 198. Subject to review and approval at a meeting of the county plat board of the county in which the
subdivision is located, an affidavit by the surveyor who certified the plat may be recorded in the office of the register of deeds in which the plat is recorded but only for the purpose of correcting minor and typographical errors in distances, angles, directions, bearings, chords, lot numbers, street numbers or other details shown on a recorded plat as follows:

(a) The affidavit shall explain the purpose, exact nature, and details of the correction.
(b) If the county plat board rejects the request for recording of the affidavit, it shall give its reasons in writing.
(c) The register of deeds, after approval of the county plat board, shall note on the plat a reference to the book and page in which the affidavit is recorded and shall send a certified copy to the state treasurer, who shall note or reference it on his copy of the plat. The state treasurer shall send copies to all agencies which received a copy of the plat.
(d) A recorded affidavit, or a certified copy thereof, shall be prima facie evidence of the facts therein stated.
(e) Affidavits of correction may not be used to change the boundaries or shape of lots, outlots or parcels of land in a subdivision.


Popular name: Plat Act
Popular name: Subdivision Control

ASSESSOR'S PLATS

560.201 Assessor's plat; compliance; conditions for ordering; resolution; report; estimated cost.

Sec. 201. (1) An assessor's plat shall comply with sections 201 to 213 and may be ordered if any 1 of the following conditions exist:

(a) When a parcel or tract of land is owned by 2 or more persons.
(b) When the description of 1 or more of the different parcels within the area cannot be made sufficiently certain and accurate, or are deemed excessively complicated by the governing body, for the purposes of assessment and taxation without a survey or resurvey.

(2) The governing body of a municipality by adoption of a resolution may cause a plat to be made for purposes described in subsection (1) after a report from the assessor or supervisor bringing to its attention an area of land in which the stated conditions exist. It shall include in the resolution the estimated cost assessable to each parcel of land to be included in the plat for the purpose of immediate assessment, subject to final adjustment in accordance with section 203.


Popular name: Plat Act
Popular name: Subdivision Control

560.201a Assessor's plat; additional conditions for ordering.

Sec. 201a. Notwithstanding the conditions specified in sections 201(1) (a) and (b), an assessor's plat, complying with sections 201 to 213, may also be ordered if there is a person in possession under a lease agreement relating to a parcel or tract of land and all of the following conditions are met:

(a) There is in effect a lease which was executed prior to January 1, 1968.
(b) The area of the land affected by the lease is smaller than the minimum lot size or configuration required by this act, or by local ordinance, as the case may be, or if the land is of proper size and configuration but at least 75% of the portion of the boundary not abutted by streets is abutted by lands of insufficient size or configuration.
(c) The leasehold premises has been improved with a permanent structure.


Popular name: Plat Act
Popular name: Subdivision Control

560.201b Assessor's plat; additional conditions for ordering.

Sec. 201b. Notwithstanding the conditions specified in section 201(1), an assessor's plat complying with sections 201 to 213 may also be ordered by the governing body of a municipality if all of the following conditions are met:

(a) When a parcel or tract of land had been improved by 4 or more permanent residential structures before January 1, 1968.
(b) When division of the parcel or tract into lots for the purpose of selling or leasing the permanent residential
structures thereon would result in a lot size or configuration smaller than required by this act or by local ordinance.
(c) Each lot be serviced by a sewage disposal and water supply system approved by the local health department having jurisdiction.


Popular name: Plat Act

Popular name: Subdivision Control

560.202 Name and boundary description; plat made by surveyor.
Sec. 202. (1) The plat shall be called an assessor's plat and given a name. It shall plainly define the boundary of each parcel, each street, alley or road and dedication to public or private use, as such, shall be evidenced by the records of the register of deeds.
(2) The plat shall be made by a surveyor.


Popular name: Plat Act

Popular name: Subdivision Control

560.203 Assessor's plat; payment of costs and expenses; cost charged to land.
Sec. 203. The actual and necessary costs and expenses of making assessor's plats shall be paid out of the general fund of the city, incorporated village, or township whose governing body ordered the plat. All of the cost may be charged to the land so platted. Of the cost charged to the land so platted, 1/2 shall be based on the proportion that the area of each parcel bears to the total area of the plat and 1/2 shall be charged equally to each parcel included in the assessor's plat, as a special assessment on the land, in the manner provided in Act No. 67 of the Public Acts of 1961, being sections 41.921 to 41.925 of the Michigan Compiled Laws.


Popular name: Plat Act

Popular name: Subdivision Control

560.204 Survey requirements; setting of monuments.
Sec. 204. (1) The surveyor making the plat shall survey and lay out the boundaries of each parcel, street, alley or road and dedication to public or private use, according to the records of the register of deeds and whatever other evidence that may be available to show the intent of the buyer and seller, in the chronological order of their conveyance or dedication.
(2) The surveyor shall also:
(a) Set temporary monuments to show the results of the survey.
(b) Make a map of the proposed plat to the scale of not more than 100 feet to 1 inch.


Popular name: Plat Act

Popular name: Subdivision Control

560.205 Notice to proprietors.
Sec. 205. The proprietors of record of lands in the plat shall be notified by registered mail to their last known address, in order that they shall have opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown.


Popular name: Plat Act

Popular name: Subdivision Control

560.206 Reconciliation of boundaries within plat.
Sec. 206. (1) The surveyor making the plat shall reconcile any discrepancies that may be revealed, so that the plat as certified to the governing body shall be in conformity with the records of the register of deeds as nearly as is practicable.
(2) When boundary lines between adjacent parcels, as evidenced on the ground, are mutually agreed to in writing by the proprietors of record or in possession, such lines may be the true boundaries for all purposes thereafter, even though they vary from the metes and bounds descriptions previously of record. The written agreements shall be recorded in the office of the register of deeds.
(3) When reconciliation has been completed, the temporary monuments shall be replaced with permanent
monuments meeting the specifications and provisions of this act for monuments.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.207 Boundaries and numbering of lots within plat.

Sec. 207. (1) On every assessor's plat, as certified to the governing body, shall appear the bearings and distances of lines of each parcel recorded in the office of the register of deeds, and each lot shall also be numbered as provided in this act for final plats.

(2) The provisions of this act as to surveys and monuments and as to form and procedure, insofar as they are applicable to the purposes of assessor's plats shall apply.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.208 Surveyor's certificate.

Sec. 208. The sworn certificate of the surveyor who made the plat and, if a firm of surveyors also by a partner or principal officer, shall appear on the plat and shall state the following:

(a) The name of the governing body by whose order the plat was made, and the date of the order.

(b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel or lot thereof.

(c) A statement that he has fully complied with the provisions of this act in filing the plat.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.209 Filing; county road commission approval; publication; action to correct plat.

Sec. 209. (1) When completed, the assessor's plat shall be filed with the clerk of the governing body that ordered the plat. In unincorporated areas, the certificate of the county road commission shall first be secured, stating that the public roads shown on the plat were in existence at the time the plat was made.

(2) The clerk shall promptly give notice thereof by publication for 3 successive weeks in a newspaper of general circulation in the city, village, township or county, or if there is none, in a newspaper published in the adjoining county and having general circulation in the locality where the plat is situated.

(3) The plat shall remain on file in the clerk's office for 30 days after the first publication. At any time within the 30-day period any person or public body having an interest in any lands affected by the plat may bring a suit to have such plat corrected.

(4) If no such suit is brought within such time, the plat may be approved by the governing body.

(5) If suit is brought, approval shall be withheld until it is decided. If necessary, the plat shall be revised in accordance with such decision, then approved by the governing body.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.210 Local authorities approval; acknowledgment; review by state treasurer; recording.

Sec. 210. The plat, when completed and certified as provided in this act with the exception of the certification by the county plat board and when approved by the governing body and in unincorporated areas by the board of county road commissioners, shall be acknowledged by the clerk thereof. When so approved and acknowledged, all copies of the plat shall be forwarded to the state treasurer together with the recording fee specified in this act for all plats. The state treasurer shall review the plat for adherence to the provisions of this act, or may reject it giving his reasons in writing. Upon approval, the state treasurer shall forward the plat to the register of deeds for recording. On return of the proof of recording the required recording fee shall be sent to the register of deeds and the state treasurer shall distribute the copies as required for all other final plats.


**Popular name:** Plat Act

**Popular name:** Subdivision Control
LAND DIVISION ACT

560.211 Recording; notification of local authorities; apportionment of taxes.

Sec. 211. When an assessor's plat is recorded, the register of deeds shall notify the county treasurer. The county treasurer shall notify the assessor if any part of the lands included in the plat are delinquent for taxes or special assessments for any year prior to the date of recording. The assessor or supervisor shall apportion such taxes or assessments against the individual or several lots in the plat. The apportionment of delinquent taxes and special assessments shall be governed by the provisions of section 53 of Act No. 206 of the Public Acts of 1893, as amended. The apportioned taxes and special assessment shall thereafter become a lien against the individual or several lots in the plat and treated in the same manner as taxes of the year of the original assessment for the purpose of collection and sale for delinquent taxes as provided by Act No. 206 of the Public Acts of 1893, as amended.


Popular name: Plat Act

Popular name: Subdivision Control

560.212 References to plat descriptions; use; plats as evidence.

Sec. 212. Reference to any land, as it appears on a recorded assessor's plat is sufficient for purposes of assessment and taxation. Conveyance may be made by reference to the plat and shall be as effective to pass title to the land so described as it would be if the premises had been described by metes and bounds. The plat or record thereof shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated. After an assessor's plat has been made and recorded with the register of deeds, all conveyances of lands included in the assessor's plat shall be by reference to the plat. Any instrument dated and acknowledged after January 1, 1968, purporting to convey or mortgage any such lands except by reference to such assessor's plat may not be recorded by the register of deeds.


Popular name: Plat Act

Popular name: Subdivision Control

560.213 Plat recorded after tax day; substitution of plat description; certification of acquisition of public lands.

Sec. 213. (1) Whenever a parcel of land has been subdivided and platted and the plat recorded after the tax day, the assessing officer shall substitute the recorded plat for the description of the parcel of land on the tax roll of the succeeding tax year, and shall utilize for tax purposes descriptions of property within the platted area by lot number instead of by metes and bounds in carrying out his duties as provided in section 53 of Act No. 206 of the Public Acts of 1893, as amended.

(2) The assessing officer shall certify under his hand and seal that the municipality has acquired the title to the highways, streets, alleys and public places shown on the assessor's plat by reason of purchase, dedication, condemnation or adverse possession for public use, and if there are any roads, streets, alleys or other such places to which the municipality has not acquired title for public use the extent of their use shall be plainly stated in the dedication, and the plat shall be signed and acknowledged by the officer.


Popular name: Plat Act

Popular name: Subdivision Control

PLAT CHANGES

560.221 Vacation, correction, or revision of plat.

Sec. 221. The circuit court may, as provided in sections 222 to 229 vacate, correct, or revise all or a part of a recorded plat.


Popular name: Plat Act

Popular name: Subdivision Control

560.222 Complaint; filing.

Sec. 222. To vacate, correct, or revise a recorded plat or any part of it, a complaint shall be filed in the circuit court by the owner of a lot in the subdivision, a person of record claiming under the owner or the governing body of
the municipality in which the subdivision covered by the plat is located.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.223 Complaint; contents.

Sec. 223. The complaint shall set forth:

(a) The part or parts, if any, sought to be vacated and any other correction or revision of the plat sought by the plaintiff.

(b) The plaintiff's reasons for seeking the vacation, correction, or revision.


**Popular name:** Plat Act

**Popular name:** Subdivision Control


**Compiler's note:** The repealed section pertained to notice of petition.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.224a Joinder of parties defendant.

Sec. 224a. (1) The plaintiff shall join as parties defendant each of the following:

(a) The owners of record title of each lot or parcel of land included in or located within 300 feet of the lands described in the petition and persons of record claiming under those owners.

(b) The municipality in which the subdivision covered by the plat is located.

(c) The state treasurer.

(d) The drain commissioner and the chairperson of the board of county road commissioners having jurisdiction over any of the land included in the plat.

(2) Each public utility which is known to the plaintiff to have installations or equipment in the subdivision or which has a recorded easement or franchise right which would be affected by the proceedings.

(f) The director of the state transportation department and the director of the department of natural resources if any of the subdivision includes or borders a state highway or federal aid road.

(g) If the requested action may result in a public highway or a portion of a public highway that borders upon, crosses, is adjacent to, or ends at a lake or the general course of a stream being vacated or altered in such a manner as would result in the loss of public access, the director of the department of natural resources and, if the subdivision is located in a township, the township. The department of natural resources and, if applicable, the township shall review the application and determine within 30 days whether the property should be retained by the state or township as an ingress and egress point, and shall convey that decision to the court.

(2) Service of process upon the joined parties defendant shall be made in accord with the general rules governing service of process in civil actions except that the parties defendant specified in subsection (1)(b), (f), or (g) may be served by registered mail and the parties defendant specified in subsection (1)(a) may be served by registered mail if there are more than 20 persons that must be joined pursuant to subsection (1)(a).


**Popular name:** Plat Act

**Popular name:** Subdivision Control


**Compiler's note:** The repealed section pertained to service.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### 560.226 Trial and hearing; order to vacate, correct, or revise recorded plat; exceptions; plat recording resulting in loss of public access to lake or stream; reservation of easement; operation and maintenance of property by state or local unit; effect of noncompliance with subsection (4); closure of road ending; proceedings.

Sec. 226. (1) Upon trial and hearing of the action, the court may order a recorded plat or any part of it to be vacated, corrected, or revised, with the following exceptions:
LAND DIVISION ACT

(a) A part of a state highway or federal aid road shall not be vacated, corrected, or revised except by the state transportation department.

(b) A part of a county road shall not be vacated, corrected, or revised except by the county road commission having jurisdiction pursuant to chapter IV of Act No. 283 of the Public Acts of 1909, being sections 224.1 to 224.32 of the Michigan Compiled Laws.

(c) A part of a street or alley under the jurisdiction of a city, village, or township and a part of any public walkway, park, or public square or any other land dedicated to the public for purposes other than pedestrian or vehicular travel shall not be vacated, corrected, or revised under this section except by both a resolution or other legislative enactment duly adopted by the governing body of the municipality and by court order. However, neither this section nor any other section shall limit or restrict the right of a municipality under sections 256 and 257 to vacate the whole or any part of a street, alley, or other land dedicated to the use of the public.

(2) If a circuit court determines pursuant to this act that a recorded plat or any part of it that contains a public highway or portion of a public highway that borders on, crosses, is adjacent to, or ends at any lake or the general course of any stream, should be vacated or altered in a manner that would result in a loss of public access, it shall allow the state and, if the subdivision is located in a township, the township to decide whether it wants to maintain the property as an ingress and egress point. If the state or township decides to maintain the property, the court shall order the official or officials to either relinquish control to the state or township if the interest is nontransferable or convey by quitclaim deed whatever interest in the property that is held by the local unit of government to the state or township. The township shall have first priority to obtain the property or control of the property as an ingress and egress point. If the township obtains the property or control of the property as an ingress and egress point and later proposes to transfer the property or control of the property, it shall give the department of natural resources first priority to obtain the property or control of the property. If the state obtains the property or control of the property under this subsection, the property shall be under the jurisdiction of the department of natural resources. The state may retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the property was purchased from restricted fund revenue, money obtained from sale of the property shall be returned to that restricted fund.

(3) A judgment under this section vacating, correcting, or revising a highway, road, street, or other land dedicated to the public and being used by a public utility for public utility purposes shall reserve an easement therein for the use of public utilities, and may reserve an easement in other cases.

(4) If interest in the property is conveyed or control over the property is relinquished to a local unit or this state under subsection (2), the local unit or this state, as applicable, shall operate and maintain the property so as to prevent and eliminate garbage and litter accumulation, unsanitary conditions, undue noise, and congestion as necessary.

(5) If a person shows substantial noncompliance with the requirements of subsection (4), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for a period of up to 30 days.

(6) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for up to 30 days under subsection (5), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 90 days.

(7) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for 90 days under subsection (6), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 180 days.

(8) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for 180 days under subsection (7), the circuit court shall order the local unit or this state to show cause why the road ending should not be permanently closed in a manner to prevent ingress and egress to the body of water. Subject to subsection (9), the circuit court shall permanently close the road ending unless the local unit or this state shows cause why the road ending should not be closed.

(9) After a road ending is closed under subsection (8), and unless the property has been conveyed or relinquished to the adjacent landowners under subsection (10), the local unit or this state may petition the circuit court to reopen the road ending. The circuit court may order the road ending reopened if the local unit or this state presents a management plan to and posts a performance bond with the circuit court, and the circuit court finds that the management plan and performance bond are adequate to ensure compliance with subsection (4).

(10) After a road ending is closed by the circuit court under subsection (8), 1 or more of the adjacent landowners may petition the circuit court to order the local unit or this state to convey any interest in the property that the local unit or this state holds to the adjacent landowners, or, if the interest is nontransferable, to relinquish control over the
property to the adjacent landowners.

(11) Proceedings under subsection (5), (6), (7), or (8) shall be initiated by application of 7 owners of record title of land in the local unit who own land within 1 mile of the road ending to the circuit court for the county in which the road ending is located. The applicants in proceedings under subsection (5), (6), (7), (8), (9), or (10) shall give the persons described in section 224a notice of the application by registered mail.


Popular name: Plat Act
Popular name: Subdivision Control


Compiler’s note: The repealed section pertained to vesting of vacated part.

Popular name: Plat Act
Popular name: Subdivision Control

560.227a Vesting of title upon vacation of plat, street, or alley; legal description of abutting lot.

Sec. 227a. (1) Title to any part of the plat vacated by the court’s judgment, other than a street or alley, shall vest in the rightful proprietor of that part. Title to a street or alley the full width of which is vacated by the court’s judgment shall vest in the rightful proprietors of the lots, within the subdivision covered by the plat, abutting the street or alley. Title to a public highway or portion of a public highway that borders on, is adjacent to, or ends at a lake or the general course of a stream may vest in the state subject to section 226.

(2) If the lots abutting the vacated street or alley on both sides belong to the same proprietor, title to the vacated street or alley shall vest in that proprietor. If the lots on opposite sides of the vacated street or alley belong to different proprietors, title up to the center line of the vacated street or alley shall vest in the respective proprietors of the abutting lots on each side.

(3) If only part of the width of a street or alley, not extending beyond the center line, is vacated, title to the vacated part of the street or alley shall vest in the proprietor of the lots abutting the same.

(4) When title to any part of a vacated street or alley vests in an abutting proprietor, any future legal description of the abutting lot or lots shall include that part of the vacated street or alley.


Popular name: Plat Act
Popular name: Subdivision Control

560.228 Recording of judgment.

Sec. 228. Within 30 days after entry of judgment, for vacation, correction, or revision of a plat, plaintiff shall record the judgment in the office of the register of deeds. The register of deeds shall place on the original plat the date, liber, and page of the record of the court’s judgment.


Popular name: Plat Act
Popular name: Subdivision Control

560.229 Preparation and form of new plat; filing copies; caption; approval; distribution of copies; fees.

Sec. 229. (1) If the court orders a plat to be vacated, corrected, or revised in whole or in part, the court shall also direct a street or alley to prepare, in the form required by this act for a final plat, either a new plat of the part of the subdivision affected by the judgment or a new plat of the entire subdivision if the court’s judgment affects a major part of the subdivision.

(2) Five true copies of the new plat, accompanied by a copy of the court’s judgment, shall be filed with the state treasurer. The caption of the new plat shall include a statement that it is a corrected or revised plat of all or part of the same subdivision covered by the original plat.

(3) After the state treasurer has examined the new or amended plat for compliance with the court judgment and the provisions of this act for the making and filing of original final plats and has approved the new or amended plat, the state treasurer shall distribute 1 copy each to the register of deeds, clerk of the municipality, county treasurer, and county road commission. One copy shall be filed in the office of the state treasurer.

(4) Fees for recording and filing documents as required by this section shall be the same as for an original final plat.
FEES AND ADMINISTRATION

560.241 Submission of final plat; filing and recording; state plat review fee; disposition of fee.

Sec. 241. (1) When a final plat is submitted to the clerk of the governing body of the municipality, the proprietor shall deposit with the plat both of the following:

(a) A filing and recording fee of $20.00. The filing and recording fee is in addition to any fee the municipality may charge under this act.

(b) A state plat review fee of $150.00, plus $15.00 for each lot over 4 lots included in the plat. The state plat review fee shall be paid by check or money order payable to the state of Michigan.

(2) Upon approval of the plat by the governing body, the clerk shall send the filing and recording fee and the state plat review fee with the plat to the clerk of the county plat board.

(3) The clerk of the county plat board shall deposit the filing and recording fee in the county trust and agency fund for subsequent payment by county warrant from this fund to the county register of deeds in the amount of $20.00, upon submission of proof to the clerk of the county plat board that the plat has been recorded in the office of the county register of deeds.

(4) If a final plat is forwarded to the state administrator, the clerk of the county plat board shall forward the state plat review fee with the plat.

(5) A state plat review fee collected by this state shall be deposited in the state treasury for use in the administration of this act. A fund in which state plat review fees shall be deposited is created in the state treasury. This fund is a revolving fund, and money remaining in the fund at the end of the fiscal year shall be carried over in the fund to the next and succeeding fiscal years for use in the administration of this act.


Popular name: Plat Act
Popular name: Subdivision Control


Compiler's note: The repealed section pertained to submission of final plat and fees.

Popular name: Plat Act
Popular name: Subdivision Control

560.242 State treasurer; records and indexing; fees.

Sec. 242. (1) The state treasurer shall maintain a permanent file of plats and the index shall contain all pertinent information necessary to facilitate reference.

(2) A fee established by the state treasurer shall be collected for copies of plats.


Popular name: Plat Act
Popular name: Subdivision Control

560.243 Register of deeds; maintaining permanent file; expense; fee.

Sec. 243. (1) The register of deeds shall maintain a permanent file of recorded plats.

(2) The expense of maintaining the file, such as for binders, cabinets, supplies, and reproduction pursuant to the records media act, Act No. 116 of the Public Acts of 1992, being sections 24.401 to 24.403 of the Michigan Compiled Laws, shall be provided from the general fund of the county.

(3) A fee of not less than $1.00 per sheet shall be collected by the register of deeds for copies of plats recorded in his or her office.


Popular name: Plat Act
Popular name: Subdivision Control

560.244 Proprietor's copy.
LAND DIVISION ACT

Sec. 244. (1) If the proprietor of a subdivision desires to retain a copy of the final plat, he shall forward a sixth copy of it to the state treasurer for certification as an exact copy of the approved and recorded plat.

(2) The true copy requested may be made upon tracing linen or some similar material.

(3) No charge shall be made for certification of the sixth copy.


Popular name: Plat Act

Popular name: Subdivision Control

560.245 Abstract of title or title policy; attorney's opinion in lieu of abstract.

Sec. 245. The proprietor submitting the plat for approval shall furnish to the governing body an abstract of title certified to date of the proprietor's certificate to establish recorded ownership interests and any other information deemed necessary for the purpose of ascertaining whether the proper parties have signed the plat, or a policy of title insurance currently in force, covering all of the land included within the boundaries of the proposed subdivision. The governing body, in lieu of an abstract of title, may accept on its own responsibility an attorney's opinion based on the abstract of title as to ownership and marketability of title of the land.


Popular name: Plat Act

Popular name: Subdivision Control

560.246 Governing body; fees.

Sec. 246. (1) The governing body of a municipality may adopt by ordinance a reasonable schedule of fees, based on the number of lots in the proposed subdivision. The fee charged shall be in addition to the filing and recording fee, and shall be for the examination and inspection of plats and the land proposed to be subdivided, and related expenses.

(2) A proprietor submitting a plat for approval shall be required to deposit the established fee with the clerk of the municipality until the fee is paid, the plat shall not be considered or reviewed.

(3) The governing body may employ a surveyor as an assistant. If it is deemed more practical in a county for the county to employ a surveyor to assist governing bodies of municipalities within the county, then the board of supervisors, by resolution, may employ the surveyor and may establish a reasonable schedule of fees for his services to be charged to the governing body receiving his assistance.

(4) Until an ordinance is adopted by the governing body establishing a schedule of fees, the governing body may require the payment of a fee not to exceed $100.00.


Popular name: Plat Act

Popular name: Subdivision Control

560.247 County plat board; compensation.

Sec. 247. (1) Each member of the county plat board shall be paid compensation and mileage for attendance at plat board meetings equal to compensation and mileage paid to supervisors for attendance at meetings of the board of supervisors. The compensation shall be payable from the general fund of the county.

(2) The duties of the county plat board shall not be considered as being a part of the duties of the regular offices of the members thereof.


Popular name: Plat Act

Popular name: Subdivision Control

560.248 County road commission; fees.

Sec. 248. The county road commission may adopt as part of the published rules by resolution, a reasonable schedule of fees, to be charged proprietors seeking approval of plats. The fee shall be for the examination of those plat features which require approval of the county road commission as provided in section 183, and plans and inspection of highways, streets and alleys, together with bridges, culverts, drainage structures or other improvements constructed in connection with the plat and related expenses.


Popular name: Plat Act

Popular name: Subdivision Control
560.249 Board of supervisors; fees.
Sec. 249. The county board of supervisors may adopt a reasonable schedule of fees to be charged proprietors seeking approval of plats to compensate the county drain commissioner for his examination of those plat features which require approval of the county drain commissioner as provided in section 192 and plans and inspection of drainage facilities constructed by the proprietor or existing on the plat site.

Popular name: Plat Act
Popular name: Subdivision Control

560.251 Recorded plats; evidence.
Sec. 251. A certified copy of the recorded plat in the register of deeds office shall be received in all courts in this state as prima facie evidence of the making and recording of the plat in conformity with the provisions of this act.

Popular name: Plat Act
Popular name: Subdivision Control

560.252 Instruments affecting title; prohibit recording unless plat recorded.
Sec. 252. The register of deeds shall not accept for record any instrument purporting to convey or encumber lots designated by number in a subdivision of land unless a plat showing such lots has previously been recorded.

Popular name: Plat Act
Popular name: Subdivision Control

560.253 Dedication of plats; reservation of mineral rights.
Sec. 253. (1) When a plat is certified, signed, acknowledged and recorded as prescribed in this act, every dedication, gift or grant to the public or any person, society or corporation marked or noted as such on the plat shall be deemed sufficient conveyance to vest the fee simple of all parcels of land so marked and noted, and shall be considered a general warranty against the donors, their heirs and assigns to the donees for their use for the purposes therein expressed and no other.

(2) The land intended for the streets, alleys, commons, parks or other public uses as designated on the plat shall be held by the municipality in which the plat is situated in trust to and for such uses and purposes.

(3) A reservation or an ownership interest in mineral rights or underground gas storage rights in land shall not constitute the holding of title for the purpose of signing the proprietor's certificate.

Popular name: Plat Act
Popular name: Subdivision Control

560.254 Restrictions; enforcement.
Sec. 254. Any restriction required to be placed on platted land by a public body given the authority to review or approve plats by the provisions of this act or which names the public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction in a court of competent jurisdiction against anyone who has or acquires an interest in the land subject to the restriction. The restriction may be released or waived in writing but only by the public body having the right of enforcement.

Popular name: Plat Act
Popular name: Subdivision Control

560.255 Lot numbers use.
Sec. 255. When a subdivision plat has been recorded, the lots in that plat shall be described by the caption of the plat and the lot number for all purposes, including those of assessment, taxation, sale and conveyance.

Popular name: Plat Act
Popular name: Subdivision Control

560.255a Land revised, altered, or vacated by order of circuit court in county in which land situated.
Sec. 255a. Land in a subdivision dedicated to the use of the public for purposes other than pedestrian or vehicular
travel, or land dedicated for a public way which is under the jurisdiction of a municipality, a portion of which public way is within 25 meters of a lake or the general course of a stream, shall not be revised, altered, or vacated except by order of the circuit court in the county in which the land is situated.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

560.255b Presumption of acceptance of land dedicated to use of public; rebuttal.

Sec. 255b. (1) Ten years after the date the plat is first recorded, land dedicated to the use of the public in or upon the plat shall be presumed to have been accepted on behalf of the public by the municipality within whose boundaries the land lies.

(2) The presumption prescribed in subsection (1) shall be conclusive of an acceptance of dedication unless rebutted by competent evidence before the circuit court in which the land is located, establishing either of the following:

(a) That the dedication, before the effective date of this act and before acceptance, was withdrawn by the plat proprietor.

(b) That notice of the withdrawal of the dedication is recorded by the plat proprietor with the office of the register of deeds for the county in which the land is located and a copy of the notice was forwarded to the state treasurer, within 10 years after the date the plat of the land was first recorded and before acceptance of the dedicated lands.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

560.256 Opening, vacating, extending, widening, or changing name of street or alley; recording certified copy of ordinance or resolution; copy to state treasurer.

Sec. 256. Subject to the restrictions prescribed in section 255a, when the governing body of a municipality by resolution or ordinance opens or vacates a street or alley or a portion of a street or alley, or extends, widens, or changes the name of an existing street or alley, the clerk of the municipality within 30 days shall record a certified copy with the register of deeds, giving the name of the plat or plats affected, and shall send a copy to the state treasurer. Until recorded, the ordinance or resolution shall not have force or effect.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

560.257 Discontinuance of street, alley, or other public land; reservation of easement; recording resolution or ordinance; copy to state treasurer.

Sec. 257. (1) Subject to the restrictions prescribed in section 255a, when the governing body of a municipality determines that it is necessary for the health, welfare, comfort, and safety of the people of the municipality to discontinue an existing street, alley, or other public land shown on a plat, by resolution or ordinance, the governing body may reserve an easement in the street, alley, or land for public utility purposes and other public purposes within the right of way of the street, alley, or other public land vacated.

(2) The resolution or ordinance shall be recorded within 30 days with the register of deeds and a copy shall be sent to the state treasurer.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

560.258 Public lands; agreements for maintenance.

Sec. 258. As a condition of final plat approval the governing body of a municipality or the board of county road commissioners may require copies of agreements, covenants or other documents showing the manner in which areas to be reserved for the common use of the residents of the subdivision are to be maintained.


**Popular name:** Plat Act

**Popular name:** Subdivision Control

560.259 Minimum standards.
LAND DIVISION ACT

Sec. 259. The standards for approval of plats prescribed in this act are minimum standards and any municipality, by ordinance, may impose stricter requirements and may reject any plat which does not conform to such requirements.


Popular name: Plat Act
Popular name: Subdivision Control

PENALTIES

560.261 Sale of land; written disclosures to buyer; voidability of sale.

Sec. 261. No person shall sell any lot in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a street or road which has not been accepted as public unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the board of county road commissioners. In addition, any contract or agreement of sale entered into in violation of this section shall be voidable at the option of the purchaser.


Popular name: Plat Act
Popular name: Subdivision Control

560.262 Monuments; removal or disturbance.

Sec. 262. No person shall knowingly remove or disturb any monument without the permission of the governing body of the municipality in which the subdivision is located.


Popular name: Plat Act
Popular name: Subdivision Control

560.263 Lots; further division; regulation.

Sec. 263. No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the ordinances of the municipality. The municipality may permit the partitioning or dividing of lots, outlots or other parcels of land into not more than 4 parts; however, any lot, outlot or other parcel of land not served by public sewer and public water systems shall not be further partitioned or divided if the resulting lots, outlots or other parcels are less than the minimum width and area provided for in this act.


Popular name: Plat Act
Popular name: Subdivision Control

560.264 Sale of land; noncompliance with act; penalty.

Sec. 264. (1) Any person who sells or agrees to sell any lot, piece, or parcel of land without first having recorded a plat thereof when required by this act is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.00, or imprisonment for not to exceed 180 days, or both. For each offense under this subsection after a first offense under this subsection, the person shall be punished by a fine of not more than $1,000.00, or imprisonment for not to exceed 1 year, or both. Agreement to sell under this section does not include an option to buy extended from the seller for a money consideration to the prospective buyer.

(2) Any person who violates section 108, 109, 109b, or the exempt split provision of section 103(1) and sells a resulting parcel of land is responsible for the payment of a civil fine of not more than $1,000.00 for each parcel sold. A default in the payment of a civil fine or costs ordered under this subsection or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

(3) Any person who violates any provision of this act other than section 108, 109, 109b, or the exempt split provision of section 103(1) is guilty of a misdemeanor and upon conviction shall be punished as provided by law.


Popular name: Plat Act
Popular name: Subdivision Control
LAND DIVISION ACT

560.265 Enforcement of act; injunctive proceedings; venue.
Sec. 265. Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

Popular name: Plat Act
Popular name: Subdivision Control

560.266 Enforcement of act; prosecution, venue.
Sec. 266. The attorney general or the prosecuting attorney of any county may prosecute any violation of this act or may bring an action in the name of the state to restrain or prevent any violation of this act or any continuance of any such violation. Such action, in the case of the attorney general, shall be brought in the circuit court of Ingham county, upon which jurisdiction thereof is conferred, and in the case of the prosecuting attorney, in the county where the land involved is located, the defendant resides, or has his principal place of business or where the purchaser resides.

Popular name: Plat Act
Popular name: Subdivision Control

560.267 Sale of lands in violation of act; voidability of sale.
Sec. 267. Any sale of lands subdivided or otherwise partitioned or split in violation of this act is voidable at the option of the purchaser, and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

Popular name: Plat Act
Popular name: Subdivision Control

560.290 State treasurer; employee in charge of plat section; qualifications.
Sec. 290. The employee in direct charge of the plat section in the office of the state treasurer which performs services for the state treasurer under this act, and such employee's chief assistant, shall be a registered land surveyor registered in this state.

Popular name: Plat Act
Popular name: Subdivision Control

560.291 Plats in process, approval.
Sec. 291. Any preliminary or final plat which on January 1, 1968, has been approved by the municipality or county road commission may be processed under the law in effect at the time of approval, but not after January 1, 1970, after which time all plats submitted for approval shall comply with the requirements of this act.

Popular name: Plat Act
Popular name: Subdivision Control

560.292 Repeal.
Sec. 292. Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, is repealed.

Popular name: Plat Act
Popular name: Subdivision Control

560.293 Effective date.
Sec. 293. This act shall take effect on January 1, 1968.

Popular name: Plat Act
Popular name: Subdivision Control
# Table Of Contents

**LAND DIVISION ACT — Act 288 of 1967**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>560.101</td>
<td>Short title.</td>
<td>1</td>
</tr>
<tr>
<td>560.102</td>
<td>Definitions.</td>
<td>1</td>
</tr>
<tr>
<td>560.103</td>
<td>Subdivisions of land; surveys and plats, requirements.</td>
<td>3</td>
</tr>
<tr>
<td>560.104</td>
<td>Replats; requirements; vacation of original plat.</td>
<td>3</td>
</tr>
<tr>
<td>560.105</td>
<td>Preliminary or final plat; approval; conditions.</td>
<td>4</td>
</tr>
<tr>
<td>560.106</td>
<td>Approving authorities; limitation on powers of approval or rejection.</td>
<td>4</td>
</tr>
<tr>
<td>560.107</td>
<td>Preliminary plat; submission, discretion.</td>
<td>4</td>
</tr>
<tr>
<td>560.108</td>
<td>Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.</td>
<td>5</td>
</tr>
<tr>
<td>560.109</td>
<td>Approval or disapproval of proposed division; requirements; exemption from platting requirements; notice of transfer; form; sale of unplatted land; statement contained in deed; ordinance; approval not determination of compliance.</td>
<td>6</td>
</tr>
<tr>
<td>560.109a</td>
<td>Parcel less than 1 acre.</td>
<td>6</td>
</tr>
<tr>
<td>560.109b</td>
<td>Parcels of 20 or more acres.</td>
<td>7</td>
</tr>
<tr>
<td>560.111</td>
<td>Preliminary plat; specifications, requirements.</td>
<td>7</td>
</tr>
<tr>
<td>560.112</td>
<td>Preliminary plat; tentative approval; time limit, extension.</td>
<td>7</td>
</tr>
<tr>
<td>560.113</td>
<td>Preliminary plat; county road commissioner's approval or rejection.</td>
<td>7</td>
</tr>
<tr>
<td>560.114</td>
<td>Preliminary plat; county drain commissioner's approval or rejection.</td>
<td>8</td>
</tr>
<tr>
<td>560.115</td>
<td>Preliminary plat; state highways department's approval or rejection.</td>
<td>8</td>
</tr>
<tr>
<td>560.116</td>
<td>Preliminary plat; conservation department's approval or rejection.</td>
<td>8</td>
</tr>
<tr>
<td>560.117</td>
<td>Preliminary plat; approval or rejection; fees; disposition of fees.</td>
<td>8</td>
</tr>
<tr>
<td>560.118</td>
<td>Preliminary plat; health department's approval or rejection.</td>
<td>9</td>
</tr>
<tr>
<td>560.119</td>
<td>Preliminary plat; submission to county plat board and public utilities.</td>
<td>9</td>
</tr>
<tr>
<td>560.120</td>
<td>Final approval; proprietor's rights; procedure.</td>
<td>9</td>
</tr>
<tr>
<td>560.125</td>
<td>Survey requirements; monuments.</td>
<td>10</td>
</tr>
<tr>
<td>560.126</td>
<td>Survey accuracy.</td>
<td>10</td>
</tr>
<tr>
<td>560.131</td>
<td>General survey requirements; date of expiration of approval.</td>
<td>10</td>
</tr>
<tr>
<td>560.132</td>
<td>Plats; specifications.</td>
<td>11</td>
</tr>
<tr>
<td>560.133</td>
<td>Final plat; caption.</td>
<td>11</td>
</tr>
<tr>
<td>560.134</td>
<td>Final plat; description of land.</td>
<td>11</td>
</tr>
<tr>
<td>560.135</td>
<td>Map and engineering requirements.</td>
<td>11</td>
</tr>
<tr>
<td>560.136</td>
<td>Final plat; exterior boundaries; requirements, specifications.</td>
<td>12</td>
</tr>
<tr>
<td>560.137</td>
<td>Final plat; public and private grounds, streets, roads and alleys.</td>
<td>12</td>
</tr>
<tr>
<td>560.138</td>
<td>Final plat; flood plains.</td>
<td>12</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>560.139</td>
<td>Public utilities; easements.</td>
<td></td>
</tr>
<tr>
<td>560.140</td>
<td>Lots and outlots; description.</td>
<td></td>
</tr>
<tr>
<td>560.141</td>
<td>Improvements.</td>
<td></td>
</tr>
<tr>
<td>560.142</td>
<td>Certificate required for recording.</td>
<td></td>
</tr>
<tr>
<td>560.143</td>
<td>Surveyor's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.144</td>
<td>Proprietor's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.145</td>
<td>County treasurer's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.146</td>
<td>County drain commissioner's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.147</td>
<td>County road commissioner's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.148</td>
<td>Municipality governing board's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.149</td>
<td>County plat board's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.150</td>
<td>State highway commission's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.151</td>
<td>State treasurer's certificate.</td>
<td></td>
</tr>
<tr>
<td>560.161</td>
<td>Approval; general requirements.</td>
<td></td>
</tr>
<tr>
<td>560.162</td>
<td>Drain commissioner; number of copies.</td>
<td></td>
</tr>
<tr>
<td>560.163</td>
<td>Drain commissioner; approval procedure.</td>
<td></td>
</tr>
<tr>
<td>560.164</td>
<td>Board of county road commissioners; submission of plat.</td>
<td></td>
</tr>
<tr>
<td>560.165</td>
<td>Board of county road commissioners; approval procedure.</td>
<td></td>
</tr>
<tr>
<td>560.166</td>
<td>Municipality governing body; submission of plat.</td>
<td></td>
</tr>
<tr>
<td>560.167</td>
<td>Municipality governing body; approval procedure.</td>
<td></td>
</tr>
<tr>
<td>560.168</td>
<td>Transmission to county plat board; procedure of board.</td>
<td></td>
</tr>
<tr>
<td>560.169</td>
<td>Forwarding approval and plat copies to state administrator.</td>
<td></td>
</tr>
<tr>
<td>560.170</td>
<td>State treasurer; procedure upon receipt of plat.</td>
<td></td>
</tr>
<tr>
<td>560.171</td>
<td>State treasurer; plat approval or rejection; recording.</td>
<td></td>
</tr>
<tr>
<td>560.172</td>
<td>Register of deeds; recordings; notice to state treasurer.</td>
<td></td>
</tr>
<tr>
<td>560.173</td>
<td>State treasurer; procedure following notice of recording.</td>
<td></td>
</tr>
<tr>
<td>560.181</td>
<td>Final plat; streets, alleys, roads and highways; general requirements.</td>
<td></td>
</tr>
<tr>
<td>560.182</td>
<td>Final plat; streets, alleys and roads; municipal requirements.</td>
<td></td>
</tr>
<tr>
<td>560.183</td>
<td>Final plat; highways, streets and roads; county road commission requirements.</td>
<td></td>
</tr>
<tr>
<td>560.184</td>
<td>State highways; dedication; other highways and streets.</td>
<td></td>
</tr>
<tr>
<td>560.186</td>
<td>Final plat; lots and outlots; waiver; applicability of subsection (3); maintaining recorded plat.</td>
<td></td>
</tr>
<tr>
<td>560.188</td>
<td>Improvements.</td>
<td></td>
</tr>
<tr>
<td>560.190</td>
<td>Public utility easements.</td>
<td></td>
</tr>
<tr>
<td>560.192</td>
<td>Storm water drainage requirements as condition of final plat approval.</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>560.192a</td>
<td>Operation and maintenance of retention basins; annual appropriation; creation of special assessment district; establishment of boundaries; hearing on creation of district; duties of governing body creating district; hearing on objections to cost, roll, or spreading of assessment; manner and time assessments due, collected, and returned; notice of hearing; exclusion.</td>
<td>22</td>
</tr>
<tr>
<td>560.194</td>
<td>Flood plains; prohibit occupancy; alterations.</td>
<td>22</td>
</tr>
<tr>
<td>560.196</td>
<td>Subdivision names; consecutive numbering of additions.</td>
<td>22</td>
</tr>
<tr>
<td>560.198</td>
<td>Correction of errors; surveyor's affidavit.</td>
<td>23</td>
</tr>
<tr>
<td>560.201</td>
<td>Assessor's plat; compliance; conditions for ordering; resolution; report; estimated cost.</td>
<td>23</td>
</tr>
<tr>
<td>560.201a</td>
<td>Assessor's plat; additional conditions for ordering.</td>
<td>23</td>
</tr>
<tr>
<td>560.201b</td>
<td>Assessor's plat; additional conditions for ordering.</td>
<td>24</td>
</tr>
<tr>
<td>560.202</td>
<td>Name and boundary description; plat made by surveyor.</td>
<td>24</td>
</tr>
<tr>
<td>560.203</td>
<td>Assessor's plat; payment of costs and expenses; cost charged to land.</td>
<td>24</td>
</tr>
<tr>
<td>560.204</td>
<td>Survey requirements; setting of monuments.</td>
<td>24</td>
</tr>
<tr>
<td>560.205</td>
<td>Notice to proprietors.</td>
<td>24</td>
</tr>
<tr>
<td>560.206</td>
<td>Reconciliation of boundaries within plat.</td>
<td>25</td>
</tr>
<tr>
<td>560.207</td>
<td>Boundaries and numbering of lots within plat.</td>
<td>25</td>
</tr>
<tr>
<td>560.208</td>
<td>Surveyor's certificate.</td>
<td>25</td>
</tr>
<tr>
<td>560.209</td>
<td>Filing; county road commission approval; publication; action to correct plat.</td>
<td>25</td>
</tr>
<tr>
<td>560.210</td>
<td>Local authorities approval; acknowledgment; review by state treasurer; recording.</td>
<td>25</td>
</tr>
<tr>
<td>560.211</td>
<td>Recording; notification of local authorities; apportionment of taxes.</td>
<td>26</td>
</tr>
<tr>
<td>560.212</td>
<td>References to plat descriptions; use; plats as evidence.</td>
<td>26</td>
</tr>
<tr>
<td>560.213</td>
<td>Plat recorded after tax day; substitution of plat description; certification of acquisition of public lands.</td>
<td>26</td>
</tr>
<tr>
<td>560.221</td>
<td>Vacation, correction, or revision of plat.</td>
<td>26</td>
</tr>
<tr>
<td>560.222</td>
<td>Complaint; filing.</td>
<td>27</td>
</tr>
<tr>
<td>560.223</td>
<td>Complaint; contents.</td>
<td>27</td>
</tr>
<tr>
<td>560.224a</td>
<td>Joinder of parties defendant.</td>
<td>27</td>
</tr>
<tr>
<td>560.226</td>
<td>Trial and hearing; order to vacate, correct, or revise recorded plat; exceptions; plat recording resulting in loss of public access to lake or stream; reservation of easement; operation and maintenance of property by state or local unit; effect of noncompliance with subsection (4); closure of road ending; proceedings.</td>
<td>29</td>
</tr>
<tr>
<td>560.227a</td>
<td>Vesting of title upon vacation of plat, street, or alley; legal description of abutting lot.</td>
<td>29</td>
</tr>
<tr>
<td>560.228</td>
<td>Recording of judgment.</td>
<td>29</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>560.229</td>
<td>Preparation and form of new plat; filing copies; caption; approval; distribution of copies; fees.</td>
<td></td>
</tr>
<tr>
<td>560.241</td>
<td>Submission of final plat; filing and recording; state plat review fee; disposition of fee.</td>
<td></td>
</tr>
<tr>
<td>560.242</td>
<td>State treasurer; records and indexing; fees.</td>
<td></td>
</tr>
<tr>
<td>560.243</td>
<td>Register of deeds; maintaining permanent file; expense; fee.</td>
<td></td>
</tr>
<tr>
<td>560.244</td>
<td>Proprietor's copy.</td>
<td></td>
</tr>
<tr>
<td>560.245</td>
<td>Abstract of title or title policy; attorney's opinion in lieu of abstract.</td>
<td></td>
</tr>
<tr>
<td>560.246</td>
<td>Governing body; fees.</td>
<td></td>
</tr>
<tr>
<td>560.247</td>
<td>County plat board; compensation.</td>
<td></td>
</tr>
<tr>
<td>560.248</td>
<td>County road commission; fees.</td>
<td></td>
</tr>
<tr>
<td>560.249</td>
<td>Board of supervisors; fees.</td>
<td></td>
</tr>
<tr>
<td>560.251</td>
<td>Recorded plats; evidence.</td>
<td></td>
</tr>
<tr>
<td>560.252</td>
<td>Instruments affecting title; prohibit recording unless plat recorded.</td>
<td></td>
</tr>
<tr>
<td>560.253</td>
<td>Dedication of plats; reservation of mineral rights.</td>
<td></td>
</tr>
<tr>
<td>560.254</td>
<td>Restrictions; enforcement.</td>
<td></td>
</tr>
<tr>
<td>560.255</td>
<td>Lot numbers use.</td>
<td></td>
</tr>
<tr>
<td>560.255a</td>
<td>Land revised, altered, or vacated by order of circuit court in county in which land situated.</td>
<td></td>
</tr>
<tr>
<td>560.255b</td>
<td>Presumption of acceptance of land dedicated to use of public; rebuttal.</td>
<td></td>
</tr>
<tr>
<td>560.256</td>
<td>Opening, vacating, extending, widening, or changing name of street or alley; recording certified copy of ordinance or resolution; copy to state treasurer.</td>
<td></td>
</tr>
<tr>
<td>560.257</td>
<td>Discontinuance of street, alley, or other public land; reservation of easement; recording resolution or ordinance; copy to state treasurer.</td>
<td></td>
</tr>
<tr>
<td>560.258</td>
<td>Public lands; agreements for maintenance.</td>
<td></td>
</tr>
<tr>
<td>560.259</td>
<td>Minimum standards.</td>
<td></td>
</tr>
<tr>
<td>560.261</td>
<td>Sale of land; written disclosures to buyer; voidability of sale.</td>
<td></td>
</tr>
<tr>
<td>560.262</td>
<td>Monuments; removal or disturbance.</td>
<td></td>
</tr>
<tr>
<td>560.263</td>
<td>Lots; further division; regulation.</td>
<td></td>
</tr>
<tr>
<td>560.264</td>
<td>Sale of land; noncompliance with act; penalty.</td>
<td></td>
</tr>
<tr>
<td>560.265</td>
<td>Enforcement of act; injunctive proceedings; venue.</td>
<td></td>
</tr>
<tr>
<td>560.266</td>
<td>Enforcement of act; prosecution, venue.</td>
<td></td>
</tr>
<tr>
<td>560.267</td>
<td>Sale of lands in violation of act; voidability of sale.</td>
<td></td>
</tr>
<tr>
<td>560.290</td>
<td>State treasurer; employee in charge of plat section; qualifications.</td>
<td></td>
</tr>
<tr>
<td>560.291</td>
<td>Plats in process, approval.</td>
<td></td>
</tr>
<tr>
<td>560.292</td>
<td>Repeal.</td>
<td></td>
</tr>
<tr>
<td>560.293</td>
<td>Effective date.</td>
<td></td>
</tr>
</tbody>
</table>
OPEN MEETINGS ACT
Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.


The People of the State of Michigan enact:

15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.
Sec. 1. (1) This act shall be known and may be cited as the "Open meetings act".
(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.
(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.


15.262 Definitions.
Sec. 2. As used in this act:
(a) "Public body" means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.
(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.
(c) "Closed session" means a meeting or part of a meeting of a public body that is closed to the public.
(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.


15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.
Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telescast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.
(2) All decisions of a public body shall be made at a meeting open to the public.
(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.
(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.
(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.
OPEN MEETINGS ACT

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies only when deliberating the merits of a case:
(b) The employment security board of review created under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws.
(c) The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, when acting as a board of review from the decision of a controlling board.
(d) An arbitrator or arbitration panel appointed by the employment relations commission under the authority given the commission by Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Michigan Compiled Laws.
(f) The Michigan public service commission created under Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.101 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body which adopts a nonpolicymaking resolution of tribute or memorial which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act.

(11) This act shall not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under Act No. 9 of the Public Acts of the first extra session of 1946, being sections 35.601 to 35.610 of the Michigan Compiled Laws, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. “Emergent need” means a situation which the board of trustees, by rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, determines requires immediate action.


15.264 Public notice of meetings generally; contents; places of posting.

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

15.265 **Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; time for posting; statement of date, time, and place; applicability of subsection (4); recess or adjournment; emergency sessions; meeting in residential dwelling; notice.**

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting. The requirement of 18-hour notice shall not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting. This subsection does not apply to a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.

(5) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice, which is equivalent to that required under subsection (4), has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section shall bar a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body which is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: “This meeting is open to all members of the public under Michigan’s open meetings act”.


15.266 **Providing copies of public notice on written request; fee.**

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party’s payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.


15.267 **Closed sessions; roll call vote; separate set of minutes.**

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be
OPEN MEETINGS ACT

destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.


15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.


15.269 Minutes generally.

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.
15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.


15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.


15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than $1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within
the same term shall be guilty of a misdemeanor and shall be fined not more than $2,000.00, or imprisoned for not more than 1 year, or both.

15.273 Violation; liability.
Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than $500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.
(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.
(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

15.273a Selection of president by governing board of higher education institution; violation; civil fine.
Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than $500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

15.274 Repeal of §§ 15.251 to 15.253.

15.275 Effective date.
Sec. 15. This act shall take effect January 1, 1977.
# Table Of Contents

**OPEN MEETINGS ACT — Act 267 of 1976**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.261</td>
<td>Short title; effect of act on certain charter provisions, ordinances, or resolutions.</td>
<td>1</td>
</tr>
<tr>
<td>15.262</td>
<td>Definitions.</td>
<td>1</td>
</tr>
<tr>
<td>15.263</td>
<td>Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.</td>
<td>2</td>
</tr>
<tr>
<td>15.264</td>
<td>Public notice of meetings generally; contents; places of posting.</td>
<td>2</td>
</tr>
<tr>
<td>15.265</td>
<td>Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; time for posting; statement of date, time, and place; applicability of subsection (4); recess or adjournment; emergency sessions; meeting in residential dwelling; notice.</td>
<td>3</td>
</tr>
<tr>
<td>15.266</td>
<td>Providing copies of public notice on written request; fee.</td>
<td>3</td>
</tr>
<tr>
<td>15.267</td>
<td>Closed sessions; roll call vote; separate set of minutes.</td>
<td>4</td>
</tr>
<tr>
<td>15.268</td>
<td>Closed sessions; permissible purposes.</td>
<td>4</td>
</tr>
<tr>
<td>15.269</td>
<td>Minutes generally.</td>
<td>5</td>
</tr>
<tr>
<td>15.270</td>
<td>Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.</td>
<td>5</td>
</tr>
<tr>
<td>15.271</td>
<td>Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.</td>
<td>5</td>
</tr>
<tr>
<td>15.272</td>
<td>Violation as misdemeanor; penalty.</td>
<td>6</td>
</tr>
<tr>
<td>15.273</td>
<td>Violation; liability.</td>
<td>6</td>
</tr>
<tr>
<td>15.273a</td>
<td>Selection of president by governing board of higher education institution; violation; civil fine.</td>
<td>6</td>
</tr>
<tr>
<td>15.274</td>
<td>Repeal of §§ 15.251 to 15.253.</td>
<td>6</td>
</tr>
<tr>
<td>15.275</td>
<td>Effective date.</td>
<td>6</td>
</tr>
</tbody>
</table>
MICHIGAN ZONING ENABLING ACT
Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.


The People of the State of Michigan enact:

ARTICLE 1
GENERAL PROVISIONS

125.3101 Short title.
Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".


125.3102 Definitions.
Sec. 102. As used in this act:
(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.
(b) "Airport" means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.
(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.
(d) "Airport manager" means that term as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.
(e) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.
(f) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.
(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.
(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.
(i) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 308.
(j) "Family day-care home" and "group day-care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home.
(k) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.
(l) "Improvements" means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.
(m) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.
(n) "Legislative body" refers to the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county,
towship, city, or village.

(o) "Local unit of government" means a county, township, city, or village.

(p) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

(q) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(r) "Site plan" includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(s) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

(t) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(u) "Zoning board" means a county zoning commission created under the county zoning act, 1943 PA 185, MCL 125.201 to 125.240, or a township zoning board created under the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, that existed on the effective date of this act.

(v) "Zoning commission" means a zoning commission as described under section 301.

(w) "Zoning jurisdiction" refers to the area encompassed by the legal boundaries of a city or village or to the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to township zoning by a township that has adopted a zoning ordinance under this act.


125.3103 Notice; publication; mail or personal delivery; requirements.

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government is required to provide notice and hearing under this act, the local unit of government shall publish notice of the request in a newspaper of general circulation in the local unit of government.

(2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:

(a) Describe the nature of the request.

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.

(c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.


ARTICLE II
ZONING AUTHORIZATION AND INITIATION

125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land
and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.


125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.

Sec. 202. (1) The legislative body of a local government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended, supplemented, or changed. Amendments or supplements to the zoning ordinance shall be made in the same manner as provided under this act for the enactment of the original ordinance.

(2) If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required under section 103.

(3) If 11 or more adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required under section 103, except for the requirement of section 103(2) and except that no individual addresses of properties are required to be listed under section 103(3)(b).

(4) An amendment to a zoning ordinance by a city or village is subject to a protest petition under section 403.

(5) An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.


125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted after March 28, 2001.

Sec. 203. (1) The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, 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 for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(2) If a local unit of government adopts or revises a plan required under subsection (1) after an airport layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 306 or transmitted under section 308
from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.


125.3204 Single-family residence; instruction in craft or fine art as home occupation.

Sec. 204. A zoning ordinance adopted under this act shall provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.


125.3205 Ordinance subject to MCL 460.561 to 460.575; regulation or control of oil or gas wells; prohibition.

Sec. 205. (1) An ordinance adopted under this act is subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.


125.3206 Residential use of property; adult foster care facilities; family or group day-care homes.

Sec. 206. (1) Except as otherwise provided in subsection (2), a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(3) For a county or township, a family day-care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(4) For a county or township, a group day-care home shall be issued a special use permit, conditional use permit, or other similar permit if the group day-care home meets all of the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(i) Another licensed group day-care home.

(ii) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.

(iv) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group day-care home as determined by the local unit of government.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group day-care home to identify itself.

(f) Meets regulations, if any, requiring a group day-care home operator to provide off-street parking accommodations for his or her employees.

(5) For a city or village, a group day-care home may be issued a special use permit, conditional use permit, or other similar permit.
(6) A licensed or registered family or group day-care home that operated before March 30, 1989 is not required to comply with the requirements of this section.

(7) The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group day-care home for the home’s compliance with the local unit of government’s zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group day-care home than as provided under 1973 PA 116, MCL 722.111 to 722.128.

(8) The subsequent establishment of any of the facilities listed under subsection (4)(a) will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group day-care home.

(9) The requirements of this section shall not prevent a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group day-care home that does not meet the standards listed under subsection (4).

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.


125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.

Sec. 207. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.


125.3208 Nonconforming uses or structures.

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the provisions of the zoning ordinance or amendment.

(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.


125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.

Sec. 209. Except as otherwise provided under this act, a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, or regulation adopted by a county under this act.


125.3210 Ordinance as controlling.

Sec. 210. Except as otherwise provided under this act, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.


125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.
Sec. 211. (1) The legislative body may proceed with the adoption of a zoning ordinance containing land development regulations and establishing zoning districts under this act upon appointment of a zoning commission as provided in section 301.

(2) The legislative body may appoint a zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action as provided under subsection (3).

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.


ARTICLE III
ZONING COMMISSION

125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.

Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission. A zoning board in existence on the effective date of this act may continue as a zoning commission subject to a transfer of power under subsection (2) or until 5 years from the effective date of this act, whichever is earlier. A planning commission exercising the authority of a zoning board before the effective date of this act may continue to exercise that authority subject to this act.

(2) Except as otherwise provided under this subsection, if the legislative body has transferred the powers of the zoning commission to the planning commission as provided by law, the zoning commission shall be the planning commission of the local unit of government. The legislative body shall have 5 years from the effective date of this act to transfer the powers of the zoning commission to the planning commission. Except as provided under this subsection, 5 years after the effective date of this act, the zoning commission shall not have any authority under this act or an ordinance adopted under this act.

(3) If a zoning commission is created after the effective date of this act, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not less than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or shall be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on the effective date of this act.

(4) The members of the zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

(5) The first zoning commission appointed shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

(a) One group for 1 year.
(b) One group for 2 years.
(c) One group for 3 years.

(6) Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner for terms of 3 years each. A member of the zoning commission shall serve until a successor is appointed and has been qualified.

(7) A vacancy shall be filled in the same manner as is provided under this section for the remainder of the unexpired term.

(8) An elected officer of the local unit of government or an employee of the legislative body shall not serve simultaneously as a member or an employee of the zoning commission, except that 1 member of the zoning commission may be a member of the legislative body.

(9) The legislative body shall provide for the removal of a member of the zoning commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.

(10) The zoning commission shall elect from its members a chairperson, a secretary, and other officers or establish such committees it considers necessary and may engage any employees, including for technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

125.3302 Expenses; compensation.
Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.


125.3303 Planning expert; compensation.
Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

(2) The zoning commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.


125.3304 Regular meetings; notice; zoning commission subject to open meetings act.
Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.


125.3305 Recommendations of zoning commission; adoption and filing.
Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

(a) A zoning plan for the areas subject to zoning of the local unit of government.

(b) The establishment of zoning districts, including the boundaries of those districts.

(c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.

(d) The manner of administering and enforcing the zoning ordinance.


125.3306 Recommendations of zoning commission; submission to legislative body; public hearing; notice; examination of proposed text and maps.
Sec. 306. (1) Before submitting its recommendations for a proposed zoning ordinance to the legislative body, the zoning commission shall hold at least 1 public hearing. Notice of the time and place of the public hearing shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other subsequent zoning text or map amendments.

(2) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

(3) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.


125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.
Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

(2) If there is not a county zoning commission or county planning commission, the proposed zoning ordinance shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or village having a common boundary with the township.

(3) The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.
(4) The legislative body of a county by resolution may waive its right to review township ordinances and amendments under this section.


125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.

Sec. 308. (1) Following the required public hearing under section 306, the zoning commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the legislative body of the local unit of government.

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.


ARTICLE IV
ZONING ADOPTION AND ENFORCEMENT

125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.

Sec. 401. (1) After receiving a zoning ordinance under section 308(1) or an amendment under section 202, the legislative body may hold a public hearing if it considers it necessary or as may otherwise be required.

(2) Notice of the hearing to be held by the legislative body shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other zoning text or map amendments.

(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.

(4) The legislative body shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body.

(5) After the public hearing held as allowed under this section, the legislative body shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the legislative body.

(6) Except as otherwise provided under section 402, a zoning ordinance shall take effect upon the expiration of 7 days after publication as required by this section or at such later date after publication as may be specified by the legislative body.

(7) Following adoption of a zoning ordinance and any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(8) A copy of the notice required under subsection (7) shall be mailed to the airport manager of an airport entitled to notice under section 306.

(9) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of ____________.

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(10) The filing and publication requirements under this section supersede any other statutory requirements relating to the filing and publication of county, township, city, or village ordinances.


125.3402 Notice of intent to file petition.

Sec. 402. (1) Within 7 days after publication of a zoning ordinance under section 401, a registered elector residing in the zoning jurisdiction of a county or township may file with the clerk of the legislative body a notice of intent to file a petition under this section.
(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the clerk of the legislative body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.

(3) Upon the filing of a notice of intent under subsection (1), the zoning ordinance or part of the zoning ordinance adopted by the legislative body shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.

(4) A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.


125.3403 Amendment to zoning ordinance; filing of protest petition; vote.

Sec. 403. (1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body of the city or village before final legislative action on the amendment and shall be signed by 1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(2) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (1).


125.3404 Interim zoning ordinance.

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this act, the legislative body of a local unit of government may direct the zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance.

(2) Before presenting its recommendations to the legislative body, the zoning commission of a township shall submit the interim zoning ordinance, or an amendment to the ordinance, to the county zoning commission or the coordinating zoning committee, for the purpose of coordinating the zoning ordinance with the zoning ordinances of a township, city, or village having a common boundary with the township. The ordinance shall be considered approved 15 days from the date the zoning ordinance is submitted to the legislative body.

(3) After approval, the legislative body, by majority vote of its members, may give the interim ordinance or amendments to the interim ordinance immediate effect. An interim ordinance and subsequent amendments shall be filed and published as required under section 401.

(4) The interim ordinance, including any amendments, shall be limited to 1 year from the effective date and to not more than 2 years of renewal thereafter by resolution of the local unit of government.


125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time
period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner’s rights under this act, the ordinances of the local unit of government, or any other laws of this state.


125.3406 Zoning permits; fees.

Sec. 406. The legislative body may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.


125.3407 Certain violations as nuisance per se.

Sec. 407. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The legislative body shall in the zoning ordinance enacted under this act designate the proper official or officials who shall administer and enforce the zoning ordinance and do either of the following for each violation of the zoning ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.


ARTICLE V

SPECIAL ZONING PROVISIONS

125.3501 Submission and approval of site plan; procedures and requirements.

Sec. 501. (1) The local unit of government may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body or official responsible for reviewing site plans and granting approval.

(2) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the body or official that initially approved the site plan.

(3) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(4) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other local unit of government planning documents, other applicable ordinances, and state and federal statutes.


125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

Sec. 502. (1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.
(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.


125.3503 Planned unit development.

Sec. 503. (1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by the local unit of government shall specify all of the following:

(a) The body or official responsible for the review and approval of planned unit development requests.

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.

(6) Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except
that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.

8) If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.

9) Final approval may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

10) In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.


125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.

Sec. 504. (1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.

(3) A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

(4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to ensure 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. Conditions imposed shall meet all of the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the 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 requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(5) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.


125.3505 Performance guarantee.

Sec. 505. (1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, a local unit of government may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government covering the estimated cost of improvements be deposited with the clerk of the legislative body to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The local unit of government may not require the deposit of the performance guarantee until it is prepared to issue the permit. The local unit of government shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.
(2) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the land division act, 1967 PA 288, MCL 560.101 to 560.293.


125.3506 Open space preservation.

Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.

(d) The option provided under this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided under subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified local unit of government if both of the following apply:

(a) On or before October 1, 2001, the local unit of government had in effect a zoning ordinance provision providing for both of the following:

(i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land that, as determined by the local unit of government, could otherwise be developed under existing ordinances, laws, and rules on the entire land area.

(ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before December 15, 2001, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area for a county or township or 20% of the land area for a city or village, remaining perpetually in an undeveloped state.

(5) The zoning ordinance provisions required by subsection (1) shall be cited as the "open space preservation" provisions of the zoning ordinance.

(6) As used in this section, "qualified local unit of government" means a county, township, city, or village that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).


125.3507 Purchase of development rights program; adoption of ordinance; limitations; agreements with other local governments.

Sec. 507. (1) As used in this section and sections 508 and 509, "PDR program" means a purchase of development rights program.

(2) The legislative body may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 508 and 509. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 508 and 509 do not expand the condemnation authority of a local unit of government as otherwise provided for in this act.
(3) A PDR program shall not acquire development rights by condemnation. This section and sections 508 and 509 do not limit any authority that may otherwise be provided by law for a local unit of government to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(4) A legislative body shall not establish, finance, or administer a PDR program unless the legislative body adopts a development rights ordinance. If the local unit of government has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance under the procedures for a zoning ordinance under this act. A local unit of government may adopt a development rights ordinance in the same manner as required for a zoning ordinance.

(5) A legislative body may promote and enter into agreements with other local units of government for the purchase of development rights, including cross-jurisdictional purchases, subject to applicable development rights ordinances.


125.3508 PDR program; purchase of development rights by local unit of government; conveyance; notice; requirements for certain purchases.

Sec. 508. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the local unit of government purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the local unit of government may seek through the purchase of development rights.

(b) The procedure by which the local unit of government or a landowner may by application initiate purchase of development rights.

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedures to be followed by the legislative body for approving, modifying, or rejecting an application to purchase development rights, including the determination of all the following:

(i) Whether to purchase development rights.

(ii) Which development rights to purchase.

(iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(iv) The price at which development rights will be purchased and the method of payment.

(v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the local unit of government.

(2) If the local unit of government has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 203 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided under subsection (1)(e).

(4) A county shall notify each township, city, or village, and a township shall notify each village, in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each township, city, or village of the disposition of that application.

(5) A county shall not purchase development rights under a development rights ordinance from land subject to a township, city, or village zoning ordinance unless all of the following requirements are met:

(a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township, city, or village zoning is based.

(b) The legislative body of the township, city, or village adopts a resolution authorizing the PDR program to apply in the township, city, or village.

(c) As part of the application procedure for the specific proposed purchase of development rights, the township, city, or village provides the county with written approval of the purchase.


125.3509 PDR program; financing sources; bonds or notes; special assessments.

Sec. 509. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the local unit of government.
(b) Proceeds from the sale of development rights by the local unit of government subject to section 508(3).

c) Grants.

d) Donations.

e) Bonds or notes issued under subsections (2) to (5).

f) General fund revenue.

g) Special assessments under subsection (6).

h) Other sources approved by the legislative body and permitted by law.

2) The legislative body may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the local unit of government. The bonds or notes may be revenue bonds or notes, general obligation limited tax bonds or notes, or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

3) The legislative body may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property, including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the local unit of government, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state.

5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, financial institutions, investment companies, and fiduciaries and trustees and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

6) A development rights ordinance may authorize the legislative body to finance a PDR program by special assessments. In addition to meeting the requirements of section 508, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(ii) A description of the proposed special assessment district.

(iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(iv) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.


ARTICLE VI
ZONING BOARD OF APPEALS

125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate members; per diem; expenses; removal; terms of office; vacancies; conduct of meetings.

Sec. 601. (1) In each local unit of government in which the legislative body exercises the authority conferred by this act, the legislative body shall appoint a zoning board of appeals. A zoning board of appeals in existence on the effective date of this act may continue to act as the zoning board of appeals subject to this act.

(2) The legislative body of a city or village may act as a zoning board of appeals and may establish rules to govern its procedure as a zoning board of appeals.

(3) In appointing a zoning board of appeals, membership of that board shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more and not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance. One of the regular members of the zoning board of
appeals shall be a member of the zoning commission or of the planning commission if the duties and responsibilities of the zoning commission have been transferred to the planning commission.

(4) The remaining regular members, and any alternate members, shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(5) One regular member may be a member of the legislative body but shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

(6) The legislative body may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

(7) A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

(8) A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(9) The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the zoning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(10) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.


125.3602 Meetings; call of the chairperson; oaths; attendance of witnesses; record of proceedings.
Sec. 602. (1) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(2) The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the legislative body.


125.3603 Zoning board of appeals; powers; concurring vote of majority of members.
Sec. 603. (1) The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

(2) The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

125.3604 Zoning board of appeals; procedures.

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the zoning board of appeals of a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request concerning a request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 103.

(5) Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom the property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(6) At the hearing, a party may appear in person or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as is otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section shall not be construed to require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.


125.3605 Decision as final; appeal to circuit court.

Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

125.3606 Circuit court; review; duties.
Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:
(a) Complies with the constitution and laws of the state.
(b) Is based upon proper procedure.
(c) Is supported by competent, material, and substantial evidence on the record.
(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.
(2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.
(3) An appeal under this section shall be filed within 30 days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

125.3607 Party aggrieved by order, determination, or decision; circuit court review; proper party.
Sec. 607. (1) Any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of any local unit of government made under section 208 may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with section 606.
(2) Any person required to be given notice under section 604(4) of the appeal of any order, determination, or decision made under section 208 shall be a proper party to any action for review under this section.

ARTICLE VII
STATUTORY COMPLIANCE AND REPEALER

125.3701 Compliance with open meetings act; availability of writings to public.
Sec. 701. (1) All meetings subject to this act shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
(2) A writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

125.3702 Repeal of MCL 125.581 to 125.600, 125.201 to 125.240, and 125.271 to 125.310; construction of section.
Sec. 702. (1) The following acts and parts of acts are repealed:
(a) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.
(b) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.
(c) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.
(2) This section shall not be construed to alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on the effective date of this act or any ordinance, order, permit, or decision that was based on the acts repealed by this section.
MICHIGAN PLANNING ENABLING ACT
Act 33 of 2008

AN ACT to codify the laws regarding and to provide for county, township, city, and village planning; to provide for the creation, organization, powers, and duties of local planning commissions; to provide for the powers and duties of certain state and local governmental officers and agencies; to provide for the regulation and subdivision of land; and to repeal acts and parts of acts.


**The People of the State of Michigan enact:**

ARTICLE I.
GENERAL PROVISIONS

***** 125.3801.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3801.new Short title.
Sec. 1. This act shall be known and may be cited as the "Michigan planning enabling act".


***** 125.3803.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3803.new Definitions.
Sec. 3. As used in this act:
(a) "Chief administrative official" means the manager or other highest nonelected administrative official of a city or village.
(b) "Chief elected official" means the mayor of a city, the president of a village, the supervisor of a township, or, subject to section 5, the chairperson of the county board of commissioners of a county.
(c) "County board of commissioners", subject to section 5, means the elected county board of commissioners, except that, as used in sections 39 and 41, county board of commissioners means 1 of the following:
   (i) A committee of the county board of commissioners, if the county board of commissioners delegates its powers and duties under this act to the committee.
   (ii) The regional planning commission for the region in which the county is located, if the county board of commissioners delegates its powers and duties under this act to the regional planning commission.
   (d) "Ex officio member", in reference to a planning commission, means a member, with full voting rights unless otherwise provided by charter, who serves on the planning commission by virtue of holding another office, for the term of that other office.
   (e) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other elected governing body of a city or village.
   (f) "Local unit of government" or "local unit" means a county or municipality.
   (g) "Master plan" means either of the following:
      (i) As provided in section 81(1), any plan adopted or amended before the effective date of this act under a planning act repealed under section 85.
      (ii) Any plan adopted or amended under this act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.
   (h) "Municipality" or "municipal" means or refers to a city, village, or township.
   (i) "Planning commission" means either of the following, as applicable:
      (i) A planning commission created pursuant to section 11(1).
      (ii) A planning commission retained pursuant to section 81(2) or (3), subject to the limitations on the application of this act provided in section 81(2) and (3).
   (j) "Planning jurisdiction" for a county, city, or village refers to the areas encompassed by the legal boundaries of that county, city, or village, subject to section 31(1). Planning jurisdiction for a township refers to the areas encompassed by the legal boundaries of that township outside of the areas of incorporated villages and cities, subject to section 31(1).
(k) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(1) "Street" means a street, avenue, boulevard, highway, road, lane, alley, viaduct, or other way intended for use by automobiles.


***** 125.3805.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3805.new Assignment of power or duty to county officer or body.

Sec. 5. The assignment of a power or duty under this act to a county officer or body is subject to 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, in a county organized under 1 of those acts.


***** 125.3807.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3807.new Master plan; adoption, amendment, and implementation by local government; purpose.

Sec. 7. (1) A local unit of government may adopt, amend, and implement a master plan as provided in this act.

(2) The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that satisfies all of the following criteria:

(a) Is coordinated, adjusted, harmonious, efficient, and economical.

(b) Considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development.

(c) Will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.

(d) Includes, among other things, promotion of or adequate provision for 1 or more of the following:

(i) A system of transportation to lessen congestion on streets.

(ii) Safety from fire and other dangers.

(iii) Light and air.

(iv) Healthful and convenient distribution of population.

(v) Good civic design and arrangement and wise and efficient expenditure of public funds.

(vi) Public utilities such as sewage disposal and water supply and other public improvements.

(vii) Recreation.

(viii) The use of resources in accordance with their character and adaptability.


ARTICLE II.
PLANNING COMMISSION CREATION AND ADMINISTRATION

***** 125.3811.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3811.new Planning commission; creation; adoption of ordinance by local unit of government; notice required; exception; adoption of charter provision by city or home rule village; effect of repeal of planning act; continued exercise or transfer of powers and duties of zoning board or zoning commission.

Sec. 11. (1) A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in this act. The planning commission of a local unit of government shall be officially called "the planning commission", even if a charter, ordinance, or resolution uses a different name such as "plan board" or "planning board".

(2) Within 14 days after a local unit of government adopts an ordinance under subsection (1) creating a planning commission, the clerk of the local unit shall transmit notice of the adoption to the planning commission of the county where the local unit is located. However, if there is not a county planning commission or if the local unit adopting the ordinance is a county, notice shall be transmitted to the regional planning commission engaged in planning for the region within which the local unit is located. Notice under this subsection is not required when a planning commission created before the effective date of this act continues in existence under this act, but is required when an ordinance governing or creating a planning...
commission is amended or superseded under section 81(2)(b) or (3)(b).

(3) If, after the effective date of this act, a city or home rule village adopts a charter provision providing for a planning commission, the charter provision shall be implemented by an ordinance that conforms to this act. Section 81(2) provides for the continuation of a planning commission created by a charter provision adopted before the effective date of this act.

(4) Section 81(3) provides for the continuation of a planning commission created under a planning act repealed under section 85.

(5) Section 83 provides for the continued exercise by a planning commission, or the transfer to a planning commission, of the powers and duties of a zoning board or zoning commission.


***** 125.3813.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3813.new Planning commission; effect of township ordinance; number of days; petition requesting submission of ordinance to electors; filing; petition subject to Michigan election law; violation.

Sec. 13. (1) Subject to subsection (2), a township ordinance creating a planning commission under this act shall take effect 63 days after the ordinance is published by the township board in a newspaper having general circulation in the township.

(2) Subject to subsection (3), before a township ordinance creating a planning commission takes effect, a petition may be filed with the township clerk requesting the submission of the ordinance to the electors residing in the unincorporated portion of the township for their approval or rejection. The petition shall be signed by a number of qualified and registered electors residing in the unincorporated portion of the township equal to not less than 8% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected. If such a petition is filed, the ordinance shall not take effect until approved by a majority of the electors residing in the unincorporated portion of the township voting thereon at the next regular or special election that allows reasonable time for proper notices and printing of ballots or at any special election called for that purpose, as determined by the township board. The township board shall specify the language of the ballot question.

(3) Subsection (2) does not apply if the planning commission created by the ordinance is the successor to an existing zoning commission or zoning board as provided for under section 301 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3301.

(4) If a township board does not on its own initiative adopt an ordinance under this act creating a planning commission, a petition may be filed with the township clerk requesting the township board to adopt such an ordinance. The petition shall be signed by a number of qualified and registered electors as provided in subsection (2). If such a petition is filed, the township board, at its first meeting following the filing shall submit the question to the electors of the township in the same manner as provided under subsection (2).

(5) A petition under this section, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.


***** 125.3815.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3815.new Planning commission; membership; appointment; terms; vacancy; representation; qualifications; ex-officio members; board serving as planning commission; removal of member; conditions; conflict of interest; additional requirements.

Sec. 15. (1) In a municipality, the chief elected official shall appoint members of the planning commission, subject to approval by a majority vote of the members of the legislative body elected and serving. In a county, the county board of commissioners shall determine the method of appointment of members of the planning commission by resolution of a majority of the full membership of the county board.

(2) A city, village, or township planning commission shall consist of 5, 7, or 9 members. A county planning commission shall consist of 5, 7, or 9, or 11 members. Members of a planning commission other than ex officio members under subsection (5) shall be appointed for 3-year terms. However, of the members of the planning commission, other than ex officio members, first appointed, a number shall be appointed to 1-year or 2-year terms such that, as nearly as possible, the terms of 1/3 of all the planning commission members will...
expire each year. If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his or her successor is appointed.

(3) The membership of a planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the local unit of government, in accordance with the major interests as they exist in the local unit of government, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable.

(4) Members of a planning commission shall be qualified electors of the local unit of government, except that the following number of planning commission members may be individuals who are not qualified electors of the local unit of government:

(a) 3, in a city that on the effective date of this act had a population of more than 2,700 but less than 2,800.
(b) 2, in a city or village that has, or on the effective date of this act had, a population of less than 5,000, except as provided in subdivision (a).
(c) 1, in local units of government other than those described in subdivision (a) or (b).

(5) In a township that on the effective date of this act had a planning commission created under former 1931 PA 285, 1 member of the legislative body or the chief elected official, or both, may be appointed to the planning commission, as ex officio members. In any other township, 1 member of the legislative body shall be appointed to the planning commission, as an ex officio member. In a city, village, or county, the chief administrative official or a person designated by the chief administrative official, if any, the chief elected official, 1 or more members of the legislative body, or any combination thereof, may be appointed to the planning commission, as ex officio members, unless prohibited by charter. However, in a city, village, or county, not more than 1/3 of the members of the planning commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the planning commission. The term of an ex officio member of a planning commission shall be as follows:

(a) The term of a chief elected official shall correspond to his or her term as chief elected official.
(b) The term of a chief administrative official shall expire with the term of the chief elected official that appointed him or her as chief administrative official.
(c) The term of a member of the legislative body shall expire with his or her term on the legislative body.

(6) For a county planning commission, the county shall make every reasonable effort to ensure that the membership of the county planning commission includes a member of a public school board or an administrative employee of a school district included, in whole or in part, within the county's boundaries. The requirements of this subsection apply whenever an appointment is to be made to the planning commission, unless an incumbent is being reappointed or an ex officio member is being appointed under subsection (5).

(7) Subject to subsection (8), a city or village that has a population of less than 5,000, and that has not created a planning commission by charter, may by an ordinance adopted under section 11(1) provide that 1 of the following boards serve as its planning commission:

(a) The board of directors of the economic development corporation of the city or village created under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.
(b) The board of a downtown development authority created under 1975 PA 197, MCL 125.1651 to 125.1681, if the boundaries of the downtown district are the same as the boundaries of the city or village.
(c) A board created under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, if the boundaries of the authority district are the same as the boundaries of the city or village.

(8) Subsections (1) to (5) do not apply to a planning commission established under subsection (7). All other provisions of this act apply to a planning commission established under subsection (7).

(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws.

(10) An ordinance creating a planning commission may impose additional requirements relevant to the subject matter of, but not inconsistent with, this section.
125.3817.new Chairperson, secretary, and other offices; election; terms; appointment of advisory committees.

Sec. 17. (1) A planning commission shall elect a chairperson and secretary from its members and 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 officer shall be 1 year, with opportunity for reelection as specified in bylaws adopted under section 19.

(2) A planning commission may appoint advisory committees whose members are not members of the planning commission.


125.3819.new Bylaws; adoption; public record requirements; annual report by planning commission.

Sec. 19. (1) A planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

(2) A planning commission shall make an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development.


125.3821.new Meetings; frequency; time; place; special meeting; notice; compliance with open meetings act; availability of writings to public.

Sec. 21. (1) A planning commission shall hold not less than 4 regular meetings each year, and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

(2) The business that a planning commission may perform shall be conducted at a public meeting of the planning commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

(3) 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, 1976 PA 442, MCL 15.231 to 15.246.


125.3823.new Compensation; expenses; preparation of budget; acceptance of gifts.

Sec. 23. (1) Members of a planning commission may be compensated for their services as provided by the legislative body. A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings.

(2) After preparing the annual report required under section 19, a planning commission may prepare a detailed budget and submit the budget to the legislative body for approval or disapproval. The legislative body annually may appropriate funds for carrying out the purposes and functions permitted under this act, and may match local government funds with federal, state, county, or other local government or private grants, contributions, or endowments.

(3) A planning commission may accept gifts for the exercise of its functions. However, in a township, other than a township that on the effective date of this act had a planning commission created under former 1931 PA 285, only the township board may accept such gifts, on behalf of the planning commission. A gift of
money so accepted in either case shall be deposited with the treasurer of the local unit of government in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The treasurer shall draw a warrant against the special nonreverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the clerk of the local unit of government. The expenditures of a planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the legislative body.


***** 125.3825.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3825.new Employment of planning director and other personnel; contract for services; use of information and advice provided by public officials, departments, and agencies.

Sec. 25. (1) A local unit of government may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the legislative body. This authority shall be exercised by the legislative body, unless a charter provision or ordinance delegates this authority to the planning commission or another body or official. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the local unit of government.

(2) For the purposes of this act, a planning commission may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies shall make available public information for the use of planning commissions and furnish such other technical assistance and advice as they may have for planning purposes.


ARTICLE III.
PREPARATION AND ADOPTION OF MASTER PLAN

***** 125.3831.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3831.new Master plan; preparation by planning commission; conditions; duties; meetings with other governmental planning commissions or agency staff; powers.

Sec. 31. (1) A planning commission shall make and approve a master plan as a guide for development within the planning jurisdiction subject to section 81 and the following:

(a) For a county, the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(b) For a township that on the effective date of this act had a planning commission created under former 1931 PA 285, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality.

(2) In the preparation of a master plan, a planning commission shall do all of the following, as applicable:

(a) Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.

(b) Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.

(c) Cooperate with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.

(3) In the preparation of the master plan, the planning commission may meet with other governmental planning commissions or agency staff to deliberate.

(4) In general, a planning commission has such lawful powers as may be necessary to enable it to promote local planning and otherwise carry out the purposes of this act.


***** 125.3833.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3833.new Master plan; land use and infrastructure issues; inclusion of maps, plats, charts, and other related matter; recommendations for physical development; additional subjects; implementation of master street plan; specifications; section subject to MCL
125.3881(1).

Sec. 33. (1) A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the planning jurisdiction.

(2) A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the planning jurisdiction:

(a) A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, a land use plan and program for the county may be a general plan with a generalized future land use map.

(b) The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures.

(c) Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.

(d) For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.

(e) Recommendations for implementing any of the master plan's proposals.

(3) If a master plan includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between those entities and the municipality.

(4) This section is subject to section 81(1).


***** 125.3835.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3835.new Subplan; adoption.

Sec. 35. A planning commission may, by a majority vote of the members, adopt a subplan for a geographic area less than the entire planning jurisdiction, if, because of the unique physical characteristics of that area, more intensive planning is necessary for the purposes set forth in section 7.


***** 125.3837.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3837.new Metropolitan county planning commission; designation; powers.

Sec. 37. (1) A county board of commissioners may designate the county planning commission as the metropolitan county planning commission. A county planning commission so designated shall perform metropolitan and regional planning whenever necessary or desirable. The metropolitan county planning commission may engage in comprehensive planning, including, but not limited to, the following:

(a) Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for such development.

(b) Programming of capital improvements based on relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program.

(c) Coordination of all related plans of local governmental agencies within the metropolitan area or region.

(d) Intergovernmental coordination of all related planning activities among the state and local governmental agencies within the metropolitan area or region.

(2) In addition to the powers conferred by other provisions of this act, a metropolitan county planning commission may apply for, receive, and accept grants from any local, regional, state, or federal governmental agency and agree to and comply with the terms and conditions of such grants. A metropolitan county planning
commission may do any and all things necessary or desirable to secure the financial aid or cooperation of a regional, state, or federal governmental agency in carrying out its functions, when approved by a 2/3 vote of the county board of commissioners.


***** 125.3839.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3839.new Master plan; adoption; procedures; notice; submittals; use of electronic mail.

Sec. 39. (1) A master plan shall be adopted under the procedures set forth in this section and sections 41 and 43. A master plan may be adopted as a whole or by successive parts corresponding with major geographical areas of the planning jurisdiction or with functional subject matter areas of the master plan.

(2) Before preparing a master plan, a planning commission shall send to all of the following, by first-class mail or personal delivery, a notice explaining that the planning commission intends to prepare a master plan and requesting the recipient's cooperation and comment:

(a) For any local unit of government undertaking a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county undertaking a master plan, the regional planning commission for the region in which the county is located, if any.

(c) For a county undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality undertaking a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that municipality is located. If there is a county planning commission, the municipal planning commission may consult with the regional planning commission but is not required to do so.

(e) For a municipality undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located.

(f) For any local unit of government undertaking a master plan, each public utility company and railroad company owning or operating a public utility or railroad within the local unit of government, and any government entity that registers its name and mailing address for this purpose with the planning commission.

(g) If the master plan will include a master street plan, the county road commission and the state transportation department.

(3) A submittal under section 41 or 43 by or to an entity described in subsection (2) may be made by personal or first-class mail delivery of a hard copy or by electronic mail. However, the planning commission preparing the plan shall not make such submittals by electronic mail unless, in the notice described in subsection (2), the planning commission states that it intends to make such submittals by electronic mail and the entity receiving that notice does not respond by objecting to the use of electronic mail. Electronic mail may contain a link to a website on which the submittal is posted if the website is accessible to the public free of charge.


***** 125.3841.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3841.new Preparation of proposed master plan; submission to legislative body for review and comment; approval required; notice; submission of comments; statements as advisory.

Sec. 41. (1) After preparing a proposed master plan, a planning commission shall submit the proposed master plan to the legislative body for review and comment. The process of adopting a master plan shall not proceed further unless the legislative body approves the distribution of the proposed master plan.

(2) If the legislative body approves the distribution of the proposed master plan, it shall notify the secretary of the planning commission, and the secretary of the planning commission shall submit, in the manner provided in section 39(3), a copy of the proposed master plan, for review and comment, to all of the following:

(a) For any local unit of government proposing a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county proposing a master plan, the regional planning commission for the region in which the
county is located, if any.

(c) For a county proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality proposing a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that local unit of government is located. If there is a county planning commission, the secretary of the planning commission may submit a copy of the proposed master plan to the regional planning commission but is not required to do so.

(e) For a municipality proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located. The secretary of the planning commission shall concurrently submit to the county planning commission, in the manner provided in section 39(3), a statement that the requirements of subdivision (a) have been met or, if there is no county planning commission, shall submit to the county board of commissioners, in the manner provided in section 39(3), a statement that the requirements of subdivisions (a) and (d) have been met. The statement shall be signed by the secretary and shall include the name and address of each planning commission or legislative body to which a copy of the proposed master plan was submitted under subdivision (a) or (d), as applicable, and the date of submittal.

(f) For any local unit of government proposing a master plan, each public utility company and railroad company owning or operating a public utility or railroad within the local unit of government, and any government entity that registers its name and address for this purpose with the secretary of the planning commission. An entity described in this subdivision that receives a copy of a proposed master plan, or of a final master plan as provided in section 43(5), shall reimburse the local unit of government for any copying and postage costs thereby incurred.

(g) If the proposed master plan is or includes a proposed master street plan, the county road commission and the state transportation department.

(3) An entity described in subsection (2) may submit comments on the proposed master plan to the planning commission in the manner provided in section 39(3) within 63 days after the proposed master plan was submitted to that entity under subsection (2). If the county planning commission or the county board of commissioners that receives a copy of a proposed master plan under subsection (2)(c) submits comments, the comments shall include, but need not be limited to, both of the following, as applicable:

(a) A statement whether the county planning commission or county board of commissioners considers the proposed master plan to be inconsistent with the master plan of any municipality or region described in subsection (2)(a) or (d).

(b) If the county has a county master plan, a statement whether the county planning commission considers the proposed master plan to be inconsistent with the county master plan.

(4) The statements provided for in subsection (3)(a) and (b) are advisory only.


***** 125.3843.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3843.new Proposed master plan; public hearing; notice; approval by resolution of planning commission; statement; submission of copy of master plan to legislative body; approval or rejection by legislative body; procedures; submission of adopted master plan to certain entities.

Sec. 43. (1) Before approving a proposed master plan, a planning commission shall hold not less than 1 public hearing on the proposed master plan. The hearing shall be held after the expiration of the deadline for comment under section 41(3). The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government. The planning commission shall also submit notice of the public hearing in the manner provided in section 39(3) to each entity described in section 39(2). This notice may accompany the proposed master plan submitted under section 41.

(2) The approval of the proposed master plan shall be by resolution of the planning commission carried by the affirmative votes of not less than 2/3 of the members of a city or village planning commission or not less than a majority of the members of a township or county planning commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the master plan. A statement recording the planning commission's approval of the master plan, signed by the chairperson or secretary of the planning commission, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on
the future land use map. Following approval of the proposed master plan by the planning commission, the secretary of the planning commission shall submit a copy of the master plan to the legislative body.

(3) Approval of the proposed master plan by the planning commission under subsection (2) is the final step for adoption of the master plan, unless the legislative body by resolution has asserted the right to approve or reject the master plan. In that case, after approval of the proposed master plan by the planning commission, the legislative body shall approve or reject the proposed master plan. A statement recording the legislative body's approval of the master plan, signed by the clerk of the legislative body, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map.

(4) If the legislative body rejects the proposed master plan, the legislative body shall submit to the planning commission a statement of its objections to the proposed master plan. The planning commission shall consider the legislative body's objections and revise the proposed master plan so as to address those objections. The procedures provided in subsections (1) to (3) and this subsection shall be repeated until the legislative body approves the proposed master plan.

(5) Upon final adoption of the master plan, the secretary of the planning commission shall submit, in the manner provided in section 39(3), copies of the adopted master plan to the same entities to which copies of the proposed master plan were required to be submitted under section 41(2).


***** 125.3845.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3845.new Extension, addition, revision, or other amendment to master plan; adoption; procedures; review and findings.

Sec. 45. (1) An extension, addition, revision, or other amendment to a master plan shall be adopted by following the procedure under sections 39, 41, and 43, subject to all of the following:

(a) Any of the following amendments to a master plan may be made without following the procedure under sections 39, 41, and 43:

(i) A grammatical, typographical, or similar editorial change.

(ii) A title change.

(iii) A change to conform to an adopted plat.

(b) Subject to subdivision (a), the review period provided for in section 41(3) shall be 42 days instead of 63 days.

(c) When a planning commission sends notice to an entity under section 39(2) that it intends to prepare a subplan, the notice may indicate that the local unit of government intends not to provide that entity with further notices of or copies of proposed or final subplans otherwise required to be submitted to that entity under section 39, 41, or 43. Unless the entity responds that it chooses to receive notice of subplans, the local unit of government is not required to provide further notice of subplans to that entity.

(2) At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission.


***** 125.3847.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3847.new Part of county master plan covering incorporated area; adoption by appropriate city or village required; exception.

Sec. 47. (1) Subject to subsection (2), a part of a county master plan covering an incorporated area within the county shall not be recognized as the official master plan or part of the official master plan for that area unless adopted by the appropriate city or village in the manner prescribed by this act.

(2) Subsection (1) does not apply if the incorporated area is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.


***** 125.3849.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****
125.3849.new City or village planning department; authority to submit proposed master plan, or proposed extension, addition, revision, or other amendment.

Sec. 49. (1) This act does not alter the authority of a planning department of a city or village created by charter to submit a proposed master plan, or a proposed extension, addition, revision, or other amendment to a master plan, to the planning commission, whether directly or indirectly as provided by charter.

(2) Subsection (1) notwithstanding, a planning commission described in subsection (1) shall comply with the requirements of this act.


***** 125.3851.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3851.new Public interest and understanding; promotion.

Sec. 51. (1) To promote public interest in and understanding of the master plan, a planning commission may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education.

(2) A planning commission shall consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens concerning the promotion or implementation of the master plan.


ARTICLE IV.
SPECIAL PROVISIONS, INCLUDING CAPITAL IMPROVEMENTS AND SUBDIVISION REVIEW

***** 125.3861.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3861.new Construction of certain projects in area covered by municipal master plan; approval; initiation of work on project; requirements; report and advice.

Sec. 61. (1) A street, square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a vote of not less than 2/3 of its entire membership for a township that on the enactment date of this act had a planning commission created under former 1931 PA 285, or for a city or village, or by a vote of not less than a majority of its membership for any other township. If the planning commission fails to act within 35 days after submission of the proposal to the planning commission, the project shall be considered to be approved by the planning commission.

(2) Following adoption of the county plan or any part of a county plan and the certification by the county planning commission to the county board of commissioners of a copy of the plan, work shall not be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by any county board, department, or agency unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the county planning commission and the report and advice of the planning commission on the proposal have been received by the county board of commissioners and by the county board, department, or agency submitting the proposal. However, work on the project may proceed if the planning commission fails to provide in writing its report and advice upon the proposal within 35 days after the proposal is filed with the planning commission. The planning commission shall provide copies of the report and advice to the county board, department, or agency sponsoring the proposal.


***** 125.3863.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3863.new Approval of construction project before effective date of act; rescission of authorization; failure of planning commission to act within certain period of time.

Sec. 63. If the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space has been approved by a township planning commission that was
created before the effective date of this act under former 1931 PA 285 or by a city or village planning commission and authorized by the legislative body as provided under section 61, the legislative body shall not rescind its authorization unless the matter has been resubmitted to the planning commission and the rescission has been approved by the planning commission. The planning commission shall hold a public hearing on the matter. The planning commission shall submit its reasons for approval or disapproval of the rescission to the legislative body. If the planning commission disapproves the rescission, the legislative body may overrule the planning commission by a vote of not less than 2/3 of its entire membership. If the planning commission fails to act within 63 days after submission of the proposed rescission to the planning commission, the proposed rescission shall be considered to be approved by the planning commission.


***** 125.3865.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3865.new Capital improvements program of public structures and improvements; preparation; basis.

Sec. 65. (1) To further the desirable future development of the local unit of government under the master plan, a planning commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements, unless the planning commission is exempted from this requirement by charter or otherwise. If the planning commission is exempted, the legislative body either shall prepare and adopt a capital improvements program, separate from or as a part of the annual budget, or shall delegate the preparation of the capital improvements program to the chief elected official or a nonelected administrative official, subject to final approval by the legislative body. The capital improvements program shall show those public structures and improvements, in the general order of their priority, that in the commission's judgment will be needed or desirable and can be undertaken within the ensuing 6-year period. The capital improvements program shall be based upon the requirements of the local unit of government for all types of public structures and improvements. Consequently, each agency or department of the local unit of government with authority for public structures or improvements shall upon request furnish the planning commission with lists, plans, and estimates of time and cost of those public structures and improvements.

(2) Any township may prepare and adopt a capital improvement program. However, subsection (1) is only mandatory for a township if the township, alone or jointly with 1 or more other local units of government, owns or operates a water supply or sewage disposal system.


***** 125.3867.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3867.new Programs for public structures and improvements; recommendations.

Sec. 67. A planning commission may recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof, regardless of whether the planning commission is exempted from the requirement to prepare a capital improvements program under section 65.


***** 125.3869.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3869.new Copy of zoning ordinance and amendments; request by county planning commission for submission by municipal planning commission.

Sec. 69. If a municipal planning commission has zoning duties pursuant to section 83 and the municipality has adopted a zoning ordinance, the county planning commission, if any, may, by first-class mail or personal delivery, request the municipal planning commission to submit to the county planning commission a copy of the zoning ordinance and any amendments. The municipal planning commission shall submit the requested documents to the county planning commission within 63 days after the request is received and shall submit any future amendments to the zoning ordinance within 63 days after the amendments are adopted. The municipal planning commission may submit a zoning ordinance or amendment under this subsection electronically.


***** 125.3871.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3871.new Recommendations for ordinances or rules governing subdivision of land; public hearing; notice; action on proposed plat; approval, approval with conditions, or
disapproval by planning commission; approval of plat as amendment to master plan.

Sec. 71. (1) A planning commission may recommend to the legislative body provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, the county planning commission may recommend to the legislative body of the municipality provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. A planning commission may proceed under this subsection on its own initiative or upon request of the appropriate legislative body.

(2) Recommendations for a subdivision ordinance or rule may address plat design, including the proper arrangement of streets in relation to other existing or planned streets and to the master plan; adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air; and the avoidance of congestion of population, including minimum width and area of lots. The recommendations may also address the extent to which streets shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of a plat.

(3) Before recommending an ordinance or rule described in subsection (1), the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government.

(4) If a municipality has adopted a master plan or master street plan, the planning commission of that municipality shall review and make recommendations on plats before action thereon by the legislative body under section 112 of the land division act, 1967 PA 288, MCL 560.112. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, and the municipality has adopted a master plan or master street plan, the county planning commission shall also review and make recommendations on plats before action thereon by the legislative body of the municipality under section 112 of the land division act, 1967 PA 288, MCL 560.112.

(5) A planning commission shall not take action on a proposed plat without affording an opportunity for a public hearing thereon. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time, and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the municipality. Similar notice shall be mailed to the owners of land immediately adjoining the proposed plattd land.

(6) A planning commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the planning commission. If applicable standards under the land division act, 1967 PA 288, MCL 560.101 to 560.293, and an ordinance or published rules governing the subdivision of land authorized under section 105 of that act, MCL 560.105, are met, the planning commission shall recommend approval of the plat. If the planning commission fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the planning commission upon request of the proprietor. However, the proprietor may waive this requirement and consent to an extension of the 63-day period. The grounds for any recommendation of disapproval of a plat shall be stated upon the records of the planning commission.

(7) A plat approved by a municipality and recorded under section 172 of the land division act, 1967 PA 288, MCL 560.172, shall be considered to be an amendment to the master plan and a part thereof. Approval of a plat by a municipality does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat.


ARTICLE V.
TRANSITIONAL PROVISIONS AND REPEALER

***** 125.3881 new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****
125.3881.new Plan adopted or amended under planning act repealed under MCL 125.3885; effect; city or home rule village charter provision creating planning commission or ordinance implementing provision before effective date of act; ordinance creating planning commission under former law; ordinance or rules governing subdivision of land.

Sec. 81. (1) Unless rescinded by the local unit of government, any plan adopted or amended under a planning act repealed under section 85 need not be readopted under this act but continues in effect as a master plan under this act, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term. This includes, but is not limited to, a plan prepared by a planning commission and adopted before the effective date of this act to satisfy the requirements of section 1 of the former city and village zoning act, 1921 PA 207, section 3 of the former township zoning act, 1943 PA 184, section 3 of the former county zoning act, 1943 PA 183, or section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203. The master plan is subject to the requirements of this act, including, but not limited to, the requirement for periodic review under section 45(2) and the amendment procedures set forth in this act. However, the master plan is not subject to the requirements of section 33 until it is first amended under this act.

(2) Unless repealed, a city or home rule village charter provision creating a planning commission before the effective date of this act and any ordinance adopted before the effective date of this act implementing that charter provision continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, both of the following apply:

(a) The legislative body may by ordinance increase the powers and duties of the planning commission to correspond with the powers and duties of a planning commission created under this act. Provisions of this act regarding planning commission powers and duties do not otherwise apply to a planning commission created by charter before the effective date of this act and provisions of this act regarding planning commission membership, appointment, and organization do not apply to such a planning commission. All other provisions of this act, including, but not limited to, provisions regarding planning commission selection of officers, meetings, rules, records, appointment of employees, contracts for services, and expenditures, do apply to such planning commission.

(b) The legislative body shall amend any ordinance adopted before the effective date of this act to implement the charter provision, or repeal the ordinance and adopt a new ordinance, to fully conform to the requirements of this act made applicable by subdivision (a), by the earlier of the following dates:

(i) The date when an amendatory or new ordinance is first adopted under this act for any purpose.
(ii) July 1, 2011.

(3) Unless repealed, an ordinance creating a planning commission under former 1931 PA 285 or former 1945 PA 282 or a resolution creating a planning commission under former 1959 PA 168 continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, all of the following apply:

(a) Beginning on the effective date of this act, the duties of the planning commission are subject to the requirements of this act.

(b) The legislative body shall amend the ordinance, or repeal the ordinance or resolution and adopt a new ordinance, to fully conform to the requirements of this act by the earlier of the following dates:

(i) The date when an amendatory or new ordinance is first adopted under this act for any purpose.
(ii) July 1, 2011.

(c) An ordinance adopted under subdivision (b) is not subject to referendum.

(4) Unless repealed or rescinded by the legislative body, an ordinance or published rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105, need not be readopted under this act or amended to comply with this act but continue in effect under this act. However, if amended, the ordinance or published rules shall be amended under the procedures of this act.


*****

125.3883.new Transfer of powers, duties, and records.

Sec. 83. (1) If, on the effective date of this act, a planning commission had the powers and duties of a zoning board or zoning commission under the former city and village zoning act, 1921 PA 207, the former county zoning act, 1943 PA 183, or the former township zoning act, 1943 PA 184, and under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, the planning commission may continue to exercise those powers and duties without amendment of the ordinance, resolution, or charter provision that created the planning commission.
(2) If, on the effective date of this act, a local unit of government had a planning commission without zoning authority created under former 1931 PA 285, former 1945 PA 282, or former 1959 PA 168, the legislative body may by amendment to the ordinance creating the planning commission, or, if the planning commission was created by resolution, may by resolution, transfer to the planning commission all the powers and duties provided to a zoning board or zoning commission created under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702. If an existing zoning board or zoning commission in the local unit of government is nearing the completion of its draft zoning ordinance, the legislative body shall postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but is not required to postpone the transfer more than 1 year.

(3) If, on or after the effective date of this act, a planning commission is created in a local unit of government that has had a zoning board or zoning commission since before the effective date of this act, the legislative body shall transfer all the powers, duties, and records of the zoning board or zoning commission to the planning commission before July 1, 2011. If the existing zoning board or zoning commission is nearing the completion of its draft zoning ordinance, the legislative body may, by resolution, postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but not later than until 1 year after creation of the planning commission or July 1, 2011, whichever comes first.


***** 125.3885.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2008 *****

125.3885.new Repeal of certain acts.

Sec. 85. (1) The following acts are repealed:
(a) 1931 PA 285, MCL 125.31 to 125.45.
(b) 1945 PA 282, MCL 125.101 to 125.115.
(c) 1959 PA 168, MCL 125.321 to 125.333.

(2) Any plan adopted or amended under an act repealed under subsection (1) is subject to section 81(1).

Michigan State University Extension
Land Use Series Pamphlets

Periodic updates may be made to these pamphlets and would need to be obtained from the following Web site:

http://lu.msue.msu.edu/pamphlets.htm
# 1E: Sample Bylaws for a Planning Commission

This is a presentation of one sample of bylaws for adoption by a Planning Commission in Michigan. This sample is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.), and recommendations of the author and reviewers of this pamphlet (see box, below).

The Michigan Planning Enabling Act is a new statute that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used, as the act replaces the following statutes:

- P.A. 285 of 1931, as amended, (being the Municipal Planning Act, M.C.L. 125.31 et seq.)
- P.A. 282 of 1945, as amended, (being the County Planning Act, M.C.L. 125.101 et seq.)
- P.A. 168 of 1959, as amended, (being the Township Planning Act, M.C.L. 125.321 et seq.)

One of the features of the new act was to require a much more comprehensive set of bylaws for a planning commission. For example, the act makes reference to bylaws several times:

- “The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission” §15(9).
- “Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws” §15(9).

Author:
Kurt H. Schindler, REGIONAL LAND USE EDUCATOR, member MSU LAND USE TEAM
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindl9@msu.edu
overland mail: MSU Extension, Wexford County 401 N. Lake Street – Suite 400 Cadillac, Mich. 49601-1891

The author would like to thank the following members of the MSU LAND USE TEAM for their review and assistance with this publication:
- Jason Ball, MSU GRADUATE STUDENT
- Brad Neumann, LAND POLICY EDUCATOR, St Joseph County;
- Jasneet Sharma, LAND POLICY EDUCATOR, Hillsdale and Lenawee Counties;
- Lincoln Sweet, MSU GRADUATE STUDENT
• “The term of each officer shall be 1 year, with opportunity for reelection as specified in bylaws adopted under section 19” §17(1).
• “A planning commission shall adopt bylaws for the transaction of business . . .” §19(1).
• “Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members . . .” §21(1).
• “Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting” §21(1).

Related Publications
There are also separate procedural checklists for performing other planning and zoning functions. They are:
• Land Use Series: “Checklist #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
• Land Use Series: “#1B; Sample Ordinance to create a planning commission”
• Land Use Series: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
• Land Use Series: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
• Land Use Series: “#1E; Sample Bylaws for a planning commission.”
• Land Use Series: “Checklist #1F; What Should be in a Master Plan”
• Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan”
• Land Use Series: “Checklist #1H; The Five Year Plan Review.”
• Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan”
• Land Use Series: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
• Land Use Series: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
• Land Use Series: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
• Land Use Series: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
• Land Use Series: “#1N; How a Planning Commission Should Respond to Submissions”
• Land Use Series: “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
• Land Use Series: “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
• Land Use Series: “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
• Land Use Series: “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
• Land Use Series: “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”

All of these are available at www.msue.msu.edu/lu.

Glossary
The following terms are used in this publication, and have the following specific meanings.
§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).
Chief administrative official means the manager or other highest nonelected administrative official of a city or village.
Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.
Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.
Local Unit of Government means a county or municipality.
Municipality means a city, village or township.
Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
Planning jurisdiction means the area encompassed by one of the following:
• For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
• For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
• For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
• For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
• “A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings” §23(1).

In addition to the above, there are also indirect references to bylaws throughout the act.

For any step in the process of reviewing bylaws and facilitating the discussion and decisions about how your bylaws are written, your county Michigan State University Extension can assist, or can contact members of the MSU Extension Land Use Team for assistance.

This pamphlet is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

The following represents one sample set of bylaws for a planning commission in Michigan. These are written in an attempt to cover most needs that may occur. Before adoption they should be reviewed, and sections which are not pertinent omitted. In the sample bylaws, below, text which appears in brackets ([ ]) should be replaced with the specific name, number, or date as indicated. Material in a sidebar, or box, includes additional discussion and alternatives to consider.

These sample bylaws are also available in a separate word processor document (Microsoft Word™ and WordPerfect™) at the website www.msue.msu.edu/lu. The material in sidebars, or boxes, in this pamphlet are not in the word processor version of the sample bylaws.

---

### PLANNING COMMISSION BYLAWS

of [date]

Adopted, effective immediately, [date, time]

As amended through

---

#### 1. Name Purpose

A. The name shall be the [local unit of government] Planning Commission, hereafter known as the “Commission”.

B. These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 et seq.), hereinafter “the Planning Act.”

C. These Bylaws are also adopted to facilitate the duties of the Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et seq.), hereinafter “the Zoning Act.”

#### 2. Membership

A. Members. Members of the Commission are appointed by the [legislative body] pursuant to the [local unit of government] Planning Commission Ordinance of [date], as amended.

1. First priority, each member shall represent and advocate what is best for the [local unit of government].

---

**Adopt bylaws**

“A planning commission shall adopt bylaws for the transaction of business . . .” §19(1).

**The Zoning Act**

If the planning commission does not have zoning responsibilities, then section 1.C. of the Bylaws should be deleted.

**Membership of the Commission.**

Membership of the Commission should be reviewed and edited carefully. This sample is written assuming membership of the Commission represents specific topical interests, and is nominated by organizations representing those interest groups. It should be edited so it reflects the membership established in the local unit of government’s ordinance creating the planning commission.
2. Second priority, each member shall represent a separate important segment of the community, as appointed by the [legislative body]:
   a. One citizen at-large member.
   b. One citizen member representing environmental interests: Attend and/or be familiar with the desires and needs of the environmental organizations in [local unit of government] (including but not limited to conservation clubs, garden clubs, lake and river landowner associations and the Michigan Department of Environmental Quality land and water programs).
   c. One citizen member representing agriculture, forestry, and land use interests: Attend and/or be familiar with the desires and needs of the Farm Bureau, Soil Conservation District, Michigan Department of Natural Resources Forestry Division, United States Forest Service, Resource Conservation and Development Council, municipal planning and/or zoning boards.
   d. One citizen member representing governmental municipal interests: Attend and/or be familiar with the desires and needs of the county chapter of the Michigan Townships Association, cities and villages, and county government.
   e. One citizen member representing education interests: Attend and/or be familiar with the desires and needs of the local school districts, intermediate school district, College, University, MSU Extension, and other educational institutions.
   f. One member representing recreation and tourism interests: Attend and/or be familiar with the desires and needs of the tourist division of the Chamber of Commerce, visitor/convention bureau, hotel/motel tourist business owners; recreation associations; civic and social organizations; the arts; snowmobile and other recreation clubs; Michigan Department of Natural Resources Parks Division, Recreation Division, and Waterways Division.
   g. One citizen member representing industrial and economic interests: Attend and/or be familiar with the desires and needs of industrial associations, the Chamber of Commerce, economic development corporations, organized labor, and trade associations.
   h. One member representing transportation and communication interests: Attend and/or be familiar with the desires and needs of the County Road Commission, village and city road agencies, telephone companies, Internet providers, postal and other parcel delivery services, news media, mass/bus transportation systems, airports, and harbors.
   i. One member representing sanitation, environmental health, housing, and human services interests. Attend and/or be familiar with the desires and needs of public utility providers, water and sewer providers, the County Health Department, councils on aging, and human services collaborative bodies.
   j. One member shall be a member of the [legislative body]: Attend and/or be familiar with the desires and needs of the [legislative body] and its committees; adjacent legislative bodies and their planning commissions, and regional multi-county planning agency.

B. Liaisons. The purpose of liaisons is to provide certain [local unit of government] officials and quasi-officials the ability to participate in discussions with the Commission, in addition to speaking in public participation, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements pursuant to Section 2.C of these bylaws. Liaisons, if not already appointed Commission members, are:
   1. Planning Department staff, and their agents and consultants.
   2. The Commission’s consultants.
   4. [local unit of government] engineering, water, sewer, DPW, or similar department heads.
   5. [local unit of government] attorney and corporate council.
   7. Chairman of the [legislative body].
   8. Manager of the County Road Commission and village or city road agency.
   10. The county Soil Erosion and Sedimentation Control Officer.
   11. District Health Department senior or supervisory Registered Sanitarian.

Liaison Members.
This section should be reviewed carefully. Review the list to insure there are not any additions or deletions.
12. The County Surveyor, except when the issue before the Commission is to review his, or his client's work.

13. The County Register of Deeds.

14. The County Extension Director.

15. The County Soil Conservation Service Soil Conservationist.

16. Regional (multi-county) Planning Staff.

C. Attendance. If any member of the Commission is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the [legislative body] to remove a member from the Commission for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Commission secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the [legislative body] whenever any member of the Commission is absent from three consecutive regularly scheduled meetings, so the [legislative body] can consider further action allowed under law or excuse the absences.

D. Training. Each member shall have attended at least four hours per year of training in planning and zoning during the member's current term of office. If so provided in the ordinance creating the Commission, failure to meet the training requirements shall result in the member not being reappointed to the Commission. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.

E. Incompatibility of Office.

1. Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

   a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.

   b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.

   c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.

   d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.

Training
The ordinance creating the planning commission should include a requirement that training is required to be eligible for reappointment. Details on how that is done should be in the bylaws.

The Statute Requires:
“…The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission” §15(9).

“The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission” §15(9).

Adjacent Land and Conflict of Interest
Some thought should be given to how far away from one’s own property one goes to consider it to be a conflict of interest. In a very small community, with a large distance from the property, it may be hard to ever have a situation which is not a conflict for a number of members of the Commission. This practical matter should be balanced with the need to avoid the appearance of conflict and actual conflicts.

Courts have only gone as far as the adjacent parcel, and do not consider it a conflict beyond that. Some communities have used a “within 300 feet” standard (the same distance where notices are required).
3. **Duties of all members.**

   A. **Ex Parte contact**
   
   1. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the commission whenever possible.
   
   2. Despite one’s best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

   B. **Site Inspections**
   
   1. Site inspections shall be done by the zoning administrator or other staff. A written report of the site inspection shall be orally presented to the Commission at a public meeting or hearing on the site.
   
   2. If desired, no more than one member of the Commission may accompany the zoning administrator or staff on a site inspection.

   C. **Not Voting On the Same Issue Twice.**

---

**Family and Conflict of Interest**

Some thought should be given to how expansive, or limited is the list of who is included in “family”. In a very small community, with an expansive list of family, it may be hard to ever have a situation which is not a conflict. This practical matter should be balanced with the need to avoid appearance of and actual conflicts.

---

**Ex Parte Contact**

There are several different ways to handle *Ex Parte* Contact. The goal is that private conversations outside of a public meeting do not take place with members of the Commission. And if that does happen, then have a means to share the content of the conversation with everyone involved, so everyone knows what was said and those that wish to can provide a rebuttal.

---

**Site Inspections**

There are many alternative ways for site inspections to be handled. Some communities have the entire Commission do a site inspection as a group. If that is done the site inspection must be posted as a public meeting and there must be accommodations for the audience to also come along. What is important is that the bylaws spell out how it will be done in your community.
1. Any member of the Commission shall avoid situations where they are sitting in judgement and voting on a decision which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making, at a minimum shall include, but not necessarily be limited to, the following:
   a. When the appeal is of an administrative or other decision by Commission and the member of the Commission sits both on the Commission and Zoning Board of Appeals.
   b. When the appeal is of an administrative or other decision by any committee of the Commission, [legislative body], or other committee and the member of the Commission sits both on that committee and Zoning Board of Appeals or both on the Commission and Zoning Board of Appeals.
   c. When the case is an administrative decision which was decided by the Commission and sent to the [legislative body] for further action, and the member of the Commission sits both on the Commission and [legislative body].

D. Accepting gifts.
   1. Gifts shall not be accepted by a member of the Commission or liaisons from anyone connected with an agenda item before the Commission.
   2. As used here, gifts, shall mean cash, any tangible item, or service, regardless of value; and food valued over $10.
   3. This section does not apply to the Commission accepting gifts for the exercise of its functions pursuant to M.C.L. 125.3823(3), §23(3) of the Planning Act.
   4. In townships gifts shall only be accepted by the township board on behalf of the planning commission.

E. Spokesperson for the Commission.
   1. Free and open debate should take place on issues before the Commission. Such debate shall only occur at meetings of the Commission.
   2. Once a vote is taken and an issue is decided by vote, the duty of each member of the Commission is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the Commission.
   3. From time-to-time, or on a specific issue the Commission may appoint a spokesperson for the Commission for all matters which occur outside of the meetings of the Commission.

F. Code of Conduct. Each member, upon appointment, shall sign a code of conduct.

4. Officers
   A. Selection. At the regular meeting in [insert the specific month] of each year, the Commission shall select from its membership a Chair, Vice-Chair, Secretary, and Deputy Secretary. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term. In the event the office of the Secretary becomes vacant, the Deputy Secretary shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Deputy Secretary for the unexpired term. The Commission or Secretary may also designate another person who is not a member of the Commission to be the recording secretary.
   B. Tenure. The Chair, Vice-Chair and Secretary shall take office January 1 following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

Accepting Gifts
There are many alternative ways for how to handle members of the planning commission receiving gifts. There is not a “right” or a “wrong” way to do it. It is important this is discussed and the bylaws spell out the rules to which your commission agrees. Consider that it may be okay for small gifts to be received (a box of candy for example), but not something that might be viewed by the public as a bribe.

Concerning section 3.D.4.: This subsection is not needed and should be deleted from bylaws for a city, village, and county planning commission, and for townships with a planning commission created under the Municipal Planning Act (P.A. 285 of 1931).

Code of Conduct
A sample code of conduct is available at www.msue.msu.edu/lu. A code of conduct could also be combined with an oath of office, if such oaths are practice in the community.
C. Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall:

1. Preside at all meetings with all powers under parliamentary procedure;
2. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the Commission;
3. Restate all motions as pursuant to Section 5.E of these Bylaws;
4. Appoint committees;
5. Appoint officers of committees or choose to let the committees select their own officers.
6. May call special meetings pursuant to Section 5.B of these Bylaws;
7. Act as member and Chair of the Executive Committee pursuant to Section 7.A of these Bylaws;
8. Act as an Ex-Officio member of all committees of the Commission;
9. Appoint an Acting-Secretary in the event the Secretary is absent from a Commission meeting.
10. Review with the Secretary or staff, prior to a Commission meeting, the items to be on the agenda if he or she so chooses;
11. Periodically meet with the Planning Director and/or other Planning Department staff to review Planning Department operation, procedures, and to monitor progress on various projects.
12. Annually perform a job evaluation of the Planning Director, discuss the evaluation with the Planning Director, and provide a copy of the evaluation for the Planning Department and [local governing body]'s personnel files;
13. Chair or perform a major role in the interview and selection process for a Planning Director;
14. Act as, or delegate someone to act as, the Planning Director in the absence of a Planning Director;
15. Act as the Commission's and Planning Department's chief spokesman and lobbyist to represent the Commission at local, regional, and state government levels.
16. Represent the Commission, along with the [legislative body] Commission member, before the [legislative body]; and
17. Perform such other duties as may be ordered by the Commission.

D. Vice-Chair's Duties. The Vice-Chair shall:

1. Act in the capacity of Chair, with all the powers and duties found in Section 4.C of these Rules, in the Chair's absence;
2. Act as member and Vice Chair of the Executive Committee pursuant to Section 7.A of these Rules; and
3. Perform such other duties as may be ordered by the Commission.

E. Secretary's Duties. The Secretary shall:

1. Execute documents in the name of the Commission;
2. Be responsible for the minutes of each meeting, pursuant to section 6.A of these Bylaws if there is not a recording secretary.
3. Review the draft of the minutes, sign them, and submit them for approval to the Commission and shall have them spread in suitable volumes. Copies of minutes shall be distributed to each member of the Commission prior to the next meeting of the Commission (the Secretary may delegate this duty to Commission staff);
4. Receive all communications, petitions, and reports to be addressed by the Commission, delivered or mailed to the Secretary in care of the Planning Department Office;
5. Keep attendance records pursuant to Section 2.C of these Bylaws;
6. Provide notice to the public and members of the Commission for all regular and special meetings, pursuant to the Open Meetings Act, P.A. 267 of 1976, as amended, M.C.L. 15.261 et seq. (the Secretary may delegate this duty to Commission staff);
7. Prepare an agenda for Commission meetings pursuant to Section 5.K of these Bylaws (the Secretary may delegate this duty to Commission staff);
8. Act as member and Secretary of the Executive Committee pursuant to Section 7.A of these Bylaws;
9. May hire on behalf of the Commission for the local unit of government a Commission recording secretary (who shall not be a member of the Commission); and
10. Perform such other duties as may be ordered by the Commission.

F. Deputy Secretary's Duties. The Deputy Secretary shall:

1. Act in the capacity of Secretary, with all the powers and duties found in Section 4.E of these Rules, in the Secretary's absence; and
2. Perform such other duties as may be ordered by the Commission.
G. Recording Secretary’s Duties. The Recording Secretary shall not be a member of the commission or any of its committees, and shall:
1. At each meeting take notes for minutes and prepare a first draft of minutes pursuant to section 6.A of these Bylaws for review and signature by the Secretary; and
2. Perform such other duties as may be ordered by the Commission or secretary.

5. Meetings
A. Regular meetings. Meetings of the Commission will be held the [insert a number] [enter a day of the week] of every month at 7 p.m. at [location building name and address]. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate day in the same month. An annual notice or regularly scheduled Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.)

B. Special Meetings. Special meetings shall be called in the following manner:
1. By the Chair.
2. By any two members of the Commission.
3. By the Chair at the request of any non member of the commission, upon payment of a non-refundable fee to cover costs of the special meeting. The fee shall be calculated as follows: The current amount of per diem paid times the total number on the Commission, regardless if they attend the meeting or not, plus the sum of travel reimbursement of each member, regardless if they each attend the meeting or not, plus the total Planning Department budget, which represents the costs of operating the Planning Department, divided by 365.
4. Notice of special meetings shall be given by the Secretary to members of the Commission at least forty eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to staff). In addition notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act M.C.L. 15.261 et seq.).

C. Recess. The Chair, or the Commission, after the meeting has been in session for two hours (not including site inspections), shall suspend the Commission's business and evaluate the remaining items on its agenda. The commission shall then decide to finish that meetings agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year, and location the Commission will reconvene. If more than 18 hours will pass before the reconvened Commission, public notice shall be given to comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The commission shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

D. Quorum. More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a quorum for the transaction of business and the taking of official action for all matters before the Commission. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.

E. Motions.

Meeting time, location
Section 5.A. should include the location and meeting time, e.g. “Third Wednesday of each month, at 7pm in the courthouse, 123 Fourth Street, Anytown.” The act requires a planning commission meet at least four times a year ($\S 21(1))

The Statute Requires:
“Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, . . . .” $\S 21(1)$. Thus the option is different if different rules for calling a special meeting exist.

The Statute Requires:
“Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting” $\S 21(1)$. Thus the option for different rules to give notice exists.
1. Motions shall be restated by the Chair before a vote is taken.

2. Findings of Fact. All actions taken in an administrative capacity (including but not limited to, special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning) shall include each of the following parts.
   a. A finding of fact, listing what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
   b. Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
   c. The Commission's action; recommendation or position, approval, approval with conditions, or disapproval.

F. Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be recorded by "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or a majority of a quorum, whichever is greater, shall be necessary for the adoption of motions. The affirmative vote of a majority of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

G. Commission Action. Action by the Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

---

**Vote for City or Village Plan Adoption**

If a city or village, the last sentence of “Voting” should be replaced with the following:

“The affirmative vote of \( \frac{2}{3} \) the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.”
H. Parliamentary Procedure. Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by Roberts Rules of Order Newly Revised, (10th Edition, Perseus Publishing, New York, 2000 (ISBN 0-7382-037-6)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than Robert’s Rules of Order, then these Bylaws control.

I. Public Participation. All regular and special meetings, hearings, records, and accounts shall be open to the public.

1. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the Commission may direct questions to members of the public. Public comment is at the beginning of the meeting so the Commission can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.

2. The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Commission meeting without time limit or an extended time limit.

J. Consensus Business. Certain items of business before the Commission are routine matters where no discussion normally occurs or is expected to occur and a consensus for adoption normally occurs or is expected to occur. The individual preparing the agenda may mark such items on the agenda as a Consent Item, if that individual feels it qualifies as consensus business. The agenda or material presented on the issue should indicate the proposed action (approve, disapprove, no comment, approve with modification). First, any Consent Item can be removed by request of a member. It is automatically removed if discussed during Public Participation. Second, a motion to adopt the Consent Items can be made, in effect adopting all agenda items still included as Consent Items. The approval of minutes and the expense report shall be proposed on the agenda as Consent Items. Consensus business can be proposed for any item on the agenda, but shall never include any of the following:

1. Items of business which are listed in Section 18 of these bylaws.
2. Review of plans and zoning ordinances, or any part or amendment thereto.
3. Action on special use permits, planned unit developments, site plans, and similar administrative actions.
4. Election of officers.
5. Any item not printed on the agenda which is delivered, along with adequate supporting information, to Commissioners prior to the meeting.

The motion to adopt Consent items in the minutes shall clearly list each item and indicate its action/disposition.

K. Order of Business. Agenda. The Secretary, or designee, shall prepare an Agenda for each meeting and the order of business shall be as follows:

(A) Call to order, roll call, and Pledge of Allegiance.
(B) Matters pertaining to citizens present at the meeting, in the following order:
   (1) Advertised Public Hearings. The Chair will declare such a public hearing open and state its
       purpose. The petitioner, or proponent of the action advertised will be heard first.
   (2) Persons requested by the Commission to attend the meeting.
   (3) Other public participation for items on this agenda.

(C) Housekeeping business.
   (1) Consent Business.
   (2) Approval of Minutes.
   (3) Approval of Department's expense report.
   (4) Other.

(D) Unfinished business and reports (items considered here are taken up in the same order as
   established by the Commission to fix a priority for consideration and work done in the planning office).
   (1) Report from each member of the Commission on the segment of the [local unit of government] they
       represent for the past month.

(E) New business (other business and communications).

(F) Public participation for items not on this agenda.

(G) Adjournment.

L. Delivery of Agenda. The agenda and accompanying materials shall be mailed to Commission members so
   it is reasonably expected to be received prior to the weekend prior to the regular meeting date, generally
   accepted to be, but not always, mailed by first class mail on the Thursday of the week prior to the Commission
   meeting, pursuant to section 5.A.

M. Placement of Items on the Agenda.
   1. The [Planning Department/Zoning Administrator] shall be the office of record for the Commission.
   2. The [Planning Department/Zoning Administrator] may receive items on behalf of the Commission between
      the time of the adjournment of the previous Commission meeting and eight business days prior to the next
      regularly scheduled Commission meeting.
   3. Items received by the [Planning Department/Zoning Administrator] between seven business days prior
      to the next regularly scheduled Commission meeting and the next regularly scheduled Commission
      meeting shall be set aside to be received by the Commission at its next regularly scheduled Commission
      meeting. The Commission may act on those items of a minor nature or table action to the subsequent
      regular or special Commission meeting. Those items of a major nature, or items normally receiving staff
      review, analysis, or recommendation shall be tabled until the subsequent regular or special Commission
      meeting.
   4. The deadline to add items to the Commission’s meeting agenda shall be seven business days prior to the
      next regularly scheduled Commission meeting.

6. Record.
   A. Minutes and Record. The Commission Secretary shall keep, or cause to be kept, a record of Commission
      meetings, which, shall at a minimum include an indication of the following:
      1. Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open
         Meetings Act, M.C.L. 15.261 et seq.)
      2. Copy of the minutes, and all its attachments which shall include a summary of the meeting, in
         chronological sequence of occurrence:
         a. Time and place the meeting was called to order.
         b. Attendance.
         c. Indication of others present (listing names if others choose to sign in and/or a count of those present).
         d. Summary or text of points of all reports (including reports of what was seen and discussed at a site
            inspection) given at the meeting, and who gave the report and in what capacity. An alternative is to
            attach a copy of the report if offered in writing.
         e. Summary of all points made in public participation or at a hearing by the applicant, officials, and
            guests and an indication of who made the comments. An alternative is to attach a copy of the public’s
            statement, petition, or letter if it is provided in written form.
         f. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded
            the motion. For each motion, the following should be included:
            (1) Who testified and a summary of what was said..
            (2) A statement of what is being approved (e.g. special use permit, variance, conditional use permit,
                subdivision, land division, etc.)
(3) The location of the property involved (tax parcel number and description, legal description is best).

(4) What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).

(5) What evidence was considered (summary of discussion by members at the meeting).

(6) The administrative body's findings of fact.

(7) Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)

(8) The decision (e.g. approve, deny, approve with modification).

(9) A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.

(10) List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)

(11) Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix 'A', and made a part of these minutes...").

"g. Who called the question.

h. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."

i. That a person making a motion withdrew it from consideration.

j. All the Chair's rulings.

k. All challenges, discussion and vote/outcome on a Chair's ruling.

l. All parliamentary inquiries or point of order.

m. When a voting member enters or leaves the meeting.

n. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting and deliberations at a meeting.

o. All calls for an attendance count, the attendance, and ruling if a quorum exists or not.

p. The start and end of each recess.

q. All Chair's rulings of discussion being out of order.

r. Full text of any resolutions offered.

s. Summary of announcements.

t. Summary of informal actions, or agreement on consensus.

u. Time of adjournment.

3. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes.

B. Retention. Commission records shall be preserved and kept on file according to the following schedule:

1. Minutes, bonds, oaths of officials, zoning ordinances, master or compressive plans, other records of decisions, Commission or department publications: Permanent.

2. General ledger: 20 years.

3. Account journals: 10 years.

4. Bills and/or invoices, receipts, purchase orders, vouchers: 7 years.

5. Correspondence: Permanent.

7. Committees

A. Executive Committee.

1. The Executive Committee shall be a standing committee of the Commission. Its membership shall be the Chair, Vice-Chair, and Secretary of the Commission and they shall hold the same offices on the committee. The Executive Committee may deal with recommendations to the Commission on matters of the Commission budget; employment of a [Planning Department/Zoning Administrator]; overseeing the [Planning Department/Zoning Administrator]'s day-to-day administration of the [Planning Department/Office of the Zoning Administrator]; office and personnel policy; and anything else directed to the Executive Committee by the Commission.

2. The Executive Committee has limited power to act only on housekeeping matters, budget, office policy, and overseeing contracts and personnel when time constraints require action prior to the next regularly
scheduled Commission meeting. Such actions shall be reported at the next regularly scheduled Commission meeting and are subject to the Commission’s review and/or veto.

B. Ad Hoc Committees. The Commission or Chair may establish and appoint ad hoc committees for special purposes or issues, as deemed necessary. Less than a quorum may serve on an ad hoc committee at any given time.

C. Citizen Committees. The Commission, Chair, or [Planning Department/Zoning Administrator] may establish and appoint citizen committees with the consent of the Commission. Membership can be any number, so long as less than a quorum of the Commission serve on a citizen committee at any given time. The purpose of the citizen committee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Commission and to better represent various interest groups in the [local unit of government].

8. Rules of Procedure for All Committees
   A. Subservient to the Commission. All committees are subservient to the Commission and report their recommendations to the Commission for review and action. The Commission can overrule any action of any committee.
   B. Same Principles. The same principals of these Bylaws for the Commission also apply to all committees of the Commission including, but not limited to:
      1. Officers. Officers of committees are appointed by the Chair of the Commission at the time the committee is created, or are elected by the committee's membership at their first meeting. Officers, at a minimum, include a Chair and Secretary-Vice-Chair.
      2. Quorum. A committee's quorum shall be at least half the total appointed membership of the committee.
      3. Voting. Only those appointed members of a committee, who are present at the time of a vote shall be eligible to cast a vote.
      4. Attendance. If any member of a committee is absent from three consecutively scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Commission to remove any member from the committee. The committee Secretary-Vice-Chair or acting committee Secretary in the absence of the elected committee Secretary-Vice-Chair shall keep attendance records and notify the Commission of any committee member who is absent from three consecutively scheduled meetings so the Commission may consider removal of the individual from the committee or excuse the absence(s).
      5. Minutes. The Secretary-Vice-Chair of the committee shall keep minutes of the committee meetings in the same format used by the Commission and filed in the same office as the Commission’s minutes.
      6. Staff. Committees have reasonable use of [Planning Department/Zoning Administrator] staff time and assistance and direction for performing the work of the committee.
      7. Public. All committee meetings are open meetings available for public attendance and participation and minutes of the meetings are to be available for public inspection under the same principals found in P.A. 267 of 1976, as amended, (being Michigan Open Meetings Act, M.C.L. 15.261 et seq.).
      8. Subcommittees. Citizen committees may form subcommittees from their own membership and/or with additional citizens when deemed necessary. Subcommittees are subservient to the parent committee. Subcommittees are informal, not requiring quorums, attendance requirements, minutes, or public participation. Subcommittee membership shall consist of less than half the parent committee's membership.

9. [local unit of government] Department and Subdivisions; and Intergovernmental Coordination.
   The Commission shall be responsible for coordination of all related plans between departments or subdivisions of [local unit of government] and intergovernmental coordination of all related planned activities among the state, federal, and municipal governments concerned. The Commission may use committees (pursuant to section 7.B of these rules), [Planning Department/Zoning Administrator] staff, citizen committees (pursuant to section 7.C of these rules), and interagency staff teams for purposes of accomplishing coordination. If a staff team is used, the team shall not be a committee of the Planning Commission or any other public body and shall not be a public body. The team shall be an employee level technical review with only powers to recommend.
10. **Mileage and Per Diem**
   A. Mileage and per diem shall be paid to members of the Commission at rates established by the [legislative body] for attending Commission meetings and Executive Committee meetings, and other authorized meetings and trips to represent the [local unit of government], if those Commission members bill the [local unit of government] for the same. Only mileage shall be paid for attendance at ad hoc committee meetings, if those Commission members bill the [local unit of government] for the same. No mileage or per diem is paid to any members of a citizen committee, unless authorized and budgeted by the [legislative body] with recommendation by the Commission.

The Statute Requires:
“A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings” §23(1).

11. **Hearings**
   A. Plan Hearings. Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the [legislative body], the Commission shall hold a public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in each newspaper of general circulation.

   Special Hearings
   If the planning commission does not have zoning responsibilities, then reference to zoning in section 11.B. of the Bylaws should be deleted.

   B. Special Hearings. Notice of special hearings for the purposes of presenting preliminary master plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties will be given in the most practical manner and to persons, or group representatives most interested, and as required by the Planning Act, Zoning Act, and relevant local zoning ordinance.

   C. Notice of Decision. A written notice containing the decision of the Commission will be sent to petitioners and originators of a request for the Commission to study a special problem.

12. **Zoning Responsibilities**
   A. All powers of the zoning commission have been transferred to this Commission, pursuant to M.C.L. 125.3301 of the Zoning Act.

   B. Zoning adoption or amendment (including PUD zoning amendments). The commission shall review and act on all proposed zoning ordinances, or zoning amendments pursuant to the Zoning Act. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. After the hearing, action shall be in the form of a recommendation to the legislative body. At a minimum the recommendation shall include:

   1. Zoning plan for the areas subject to zoning, or zoning amendment of the local unit of government;
   2. The establishment of or modification of zoning districts, including the boundaries of those districts, if applicable;
   3. The text of a zoning ordinance or amendment with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole; and
   4. The manner of administering and enforcing the zoning ordinance.

Zoning Responsibilities
If the planning commission does not have zoning responsibilities then all of section 12. of the Bylaws should be deleted.
C. Special Use Permit (including PUDs). The Commission shall review and act on all special use permits pursuant to the Zoning Act and zoning ordinance. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. After the hearing action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission’s action, pursuant to section 5.E.2 of these Bylaws.

D. Site Plan Review. The Commission shall review and act on all those site plans which the zoning ordinance requires Commission action. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's action, pursuant to section 5.E.2 of these Bylaws.

E. Appeals. The Commission shall not act, or otherwise hear issues on zoning ordinance interpretation, zoning map interpretation, non-use variances, or use variances. Such matters shall be exclusively the jurisdiction of the Zoning Board of Appeals.

A. The Commission shall review all adjacent, or contiguous, local government plans (township, village, and city), adjacent county plans, local governments government plans (township, village, and city plans) within the boundaries serviced by the Commission, and the county plans in which the Commission’s service area is located.

B. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission’s advisory action, pursuant to section 5.E.2 of these Bylaws.

C. The review should focus on:
1. First and foremost, the process is intended to increase coordination of planning between governments.
2. Consistencies or inconsistencies with your government’s plan(s) for matters such as:
   a. Border issues
   b. Issues of greater than local concern
   c. Comparison with local plan contents
   d. Comparison with county/regional plan contents
   e. Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or brownfield redevelopment plan, etc.).
   f. Comparison to various implementation strategies.
3. If the county planning commission considered the proposed plan inconsistent with the plan of any city, village, township, or region that received a copy of the draft plan (or amendment).
4. If the county planning commission considers the draft plan (or amendment) to be inconsistent with a county plan(s), if any,
5. Action by the Commission shall be based on, in part, a review of possible boundary conflicts between the plans of two municipalities. If a boundary conflict is found to exist the following shall apply:
   a. The assumption is made that there should not be any provision of a municipal plan which is in conflict with the county plan.
   b. The Commission shall use compliance with the county plan as its main tool for purposes of coordination of the proposed plans with the plans of municipalities having a common boundary. If a conflict is found to exist, it is not proper to assume the proposed plan is the problem. The problem...
could be the municipality which is adjacent to the municipality for which the plan is being reviewed. The problem could be both plans.

c. The criteria to determine which municipality has the plan which causes the boundary conflict shall be the Commission's finding of compliance with the county plan. The municipality (or both municipalities) not in compliance with the county plan shall be deemed to have the plan which contributes to the boundary conflict.

D. The review shall be in the form of a letter and shall take into account:
   1. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
   2. Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
   3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
   4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

   A. The Commission shall review all zoning ordinances and zoning amendments for townships within the county.
   B. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to section 5.E.2 of these Bylaws.
   C. Township zoning, which shall be submitted with the following information:
      1. The text of the proposed ordinance,
      2. The map for the proposed ordinance,
      3. A letter from the township's attorney of their choice indicating:
         a. proper procedure for adoption and
         b. the ordinance has been reviewed against all other applicable statutes and law, and
         c. the ordinance is appropriately drafted for use as a legal/ordinance document.
   D. Action by the Commission shall be based, in part, on a review of possible boundary conflicts between the zoning of two municipalities. If a boundary conflict is found to exist the following shall apply:
      1. The assumption is made that there should not be any provision of the township plan which is in conflict with the county plan. Thus the proposed zoning, which is based on the township plan, should also comply with the county plan.
      2. The Commission shall use compliance with the county plan as its main tool for purposes of coordination of the proposed zoning ordinances with the zoning ordinances of other municipalities having a common boundary with the township. If a conflict is found to exist, it is not proper to assume the Township's proposed zoning is the problem. The problem could be the township or municipality which is adjacent to the township for which the zoning is being reviewed. The problem could be both zoning ordinances.
      3. The criteria to determine which municipality has the zoning which causes the boundary conflict shall be the Commission’s finding of compliance with the county plan. The municipality (or both municipalities) not in compliance with the county plan shall be deemed to have the zoning which contributes to the boundary conflict.
   E. The review shall be in the form of a letter and shall take into account:
      1. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt, and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
      2. Focus only on significant issues in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
      3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

15. **Capital Improvements Review**
A. Capital Improvements (the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, agricultural land, open spaces, buildings, or properties before work is started and after municipal capital improvement planning approval is obtained). If the funding for the capital improvement project is from a grant, this approval must be obtained prior to applying for the grant or done as part of the state or federal grant clearinghouse process.

B. All preliminary plans and reports for the physical development of the [local unit of government], including the general location, character and extent of streets and roads, viaducts, bridges, farmland, agricultural land, forest land, parks and open spaces; the general location of public buildings and other public property; the general location and extent of public utilities and terminals.

C. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to section 5.E.2 of these Bylaws.

D. When reviewing the proposed project the planning commission should at a minimum consider the following issues. If the answer to any of the below is "no," then the planning commission's review of the project should not be favorable.
1. Is the proposed project consistent with adopted plans?
2. Is the project consistent with other governmental management plans?
3. Is the project consistent with the plans of each municipality located within or contiguous to the local unit of government?
4. Is the project consistent with adopted, if any, capital improvement plans?

E. The review shall be in the form of a letter, sent within 35 days after the proposal is filed for review, and shall take into account:
1. Respect for the idea that the submission and review stages are near the end of a process. A community may be ready to start construction and others may be waiting for the task to be done.
2. Focus only on significant issues in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments or agencies of governments.
4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

16. **Capital Improvements Program**
A. Annually, a capital improvement program (CIP) of public structures and improvement shall be adopted.

B. To do so, the Commission shall establish a committee consisting of volunteers from the community or a combination of volunteers and representatives from each department within the local unit of government.

C. The planning commission should also include the following individual, individuals, agencies, and departments in preparing the CIP.
1. Chief Executive (city manager, department heads, township manager, county controller/administrator, supervisor, city mayor, village president, etc.);
2. All departments within the government;

---

**The Statute Requires:**
Section 61 of the Planning Act addresses CIP reviews, details of how that is done can be in the bylaws.

**The Statute Requires:**
Section 65 of the Planning Act ....

Section 16 should be deleted if the planning commission is exempted from this duty by charter, because the legislative body asserts its authority to do so. This may be deleted in a township without water and/or sewer utilities or may be left in if the township chooses to do a CIP anyway.
3. Finance and budget department: The financial office or the person responsible who conducts the financial analysis and projections on costs and revenues for a capital improvement program and determines the best possible means to finance each capital project.

4. The Planning department staff (if any exist).

D. The committee shall cause to be requested from each agency or department of the local unit of government (with authority for public structures or improvements) for an annual inventory of desired public improvement projects with lists, plans and estimates of time and cost involved.

E. The committee or planning staff shall organize the proposed public structures and improvements in the general order of their priority, that in the committee’s judgment will be needed or desired or can be undertaken in the ensuing 6-year period.

1. In doing so, the committee may make use of expert advice and information from staff from the planning department or private consultants:
   a. Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements—and Management’s Discussing and Analysis—For State and Local Governments.
   b. Population studies
   c. Economic studies
   d. Land Use Maps
   e. Future Plans

2. In doing so, the committee shall develop a formal set of criteria or use other techniques to use to organize the proposed public structures and improvements in order of importance. The following issues at a minimum should be considered:
   a. Description, location, and purpose of project;
   b. Justification for the need for project;
   c. An explanation of its relationship to other projects;
   d. The cost of project (submit detailed budget);
   e. Estimated annual income from projects;
   f. Estimated annual operation costs for the project;
   g. Status of plans/specifications for the project and the expected length of time the capital project will last;
   h. Year construction of project should start;
   i. The rank/importance of project within department submitting it;
   j. Environmental, health, and safety impacts and energy consumption.

3. The proposed public structures and improvements in order of importance shall be considered a draft CIP, which shall be presented to the Commission.

F. The planning commission shall review the CIP:
   1. The review shall include each project to determine the conformance of the projects with community comprehensive plans, development policies, and the objectives and goals of the community.
   2. The review shall include an opportunity for agencies to present their arguments for why any given project should be included in the program and at what order of priority.
   3. Upon completion of the review, a second draft of the CIP shall be prepared.

G. The planning commission shall hold a public hearing on the second draft of the CIP.

H. After the hearing, if needed, a third draft of the CIP shall be prepared. The planning commission then:
   1. Formally adopts the CIP in the form of a recommendation to the legislative body for adoption; or
   2. Adopts an amended version of the CIP in the form of a recommendation to the legislative body for adoption; or
   3. Does not approve, thus does not adopt the ranked listing/project priorities, and proceeds to further revise the CIP until the Commission is prepared to adopt the CIP.

I. If the legislative body refers the CIP back to the Commission, the Commission shall further review the CIP, make modifications, and submit another version of the CIP to the legislative body.
17. **Subdivision Review**

A. Prepare a Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), or amendments to the same, to submit to the legislative body.

B. Proposed Subdivisions.

1. Staff for the Commission is to receive a plat and determine that the submission is complete. If incomplete, the plat shall be returned to the applicant with a list of deficiencies. If complete, the plat shall be received on behalf of the Commission.

2. Conduct a review of plats of proposed subdivisions (and/or site-condominium).

3. Hold a hearing on a proposed subdivision (and/or site-condominium) with notice of the hearing not less than 15 days before the date of the hearing.
   a. The notice shall contain an explanation of what the hearing is for, the location and nature of the proposed development, the date, time, place of the hearing, where written comments may be submitted, and the deadline for those written comments.
   b. The notice shall be sent to the person indicated on the plat (and/or draft site-condominium master deed) as the proprietor or other person(s) to whom notice of the hearing shall be sent, the property owner, and adjacent property owners.
   c. The notice shall be published in a newspaper of general circulation in the [local unit of government]
   d. Any others as required by the Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance).

4. Within 63 days of a complete plat (and/or draft site-condominium master deed) being submitted, act on the proposed subdivision (and/or site-condominium) in the form of a recommendation to the legislative body of the municipality in which the proposed subdivision (and/or site-condominium) is located.
   a. If applicable standards under the Land Division Act (M.C.L. 560.101 et seq.), Condominium Act (M.C.L. 559.101 et seq.) if applicable, and Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), the Commission shall recommend approval.
   b. Grounds for any recommendation of disapproval of a plat (and/or Site-Condominiums) shall be stated upon the record of the Commission.
   c. If the Commission does not act within the 63-day period, the plat (and/or Site-Condominiums) shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Commission upon request of the applicant. The applicant may waive the 63-day period and grant an extension.

C. Master Plan Amendment. Commission approval of a subdivision shall be considered to be an amendment to the master plan and a part thereof. The Commission shall cause the official copies of the master plan to be modified to reflect the amendment to the master plan within 30 days of the subdivision approval.

18. **Other Matters to be considered by the Commission**

A. Commission Action. The following matters shall be presented for consideration at a meeting of the Commission:

---

**The Statute Requires:**

Section 71 of the Planning Act, for subdivision reviews. These bylaws should include detail on how review of subdivisions are handled when the community has adopted its subdivision review ordinance.

Site-Condominium and Land Division regulations might also be included in one comprehensive ordinance. However the review of site-condominiums must be based on authority found in the Condominium Act, M.C.L. 559.101 et seq. It is not enough to just indicate in the bylaws review of site-condominiums will be done. Such authority must be done by adopted ordinance. Consult the local government’s attorney.

Land Division reviews should be done by the tax assessor or other designated official: that is a individual person, not a board or commission (M.C.L. 560.109(1)).

---

**Other Matters considered by the Commission**

Section 12.A. about matters to come before the Commission, and other duties the Commission may have should be reviewed carefully to insure there are not any additions or deletions. It is appropriate to delete those that do not apply.
1. At least annually, the adoption of priorities for the Commission's plan of work.
3. Office, or Administrative Policy and ruling of interpretation of regulations by the Commission or its staff.
4. The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
5. Land subdivision plats.
6. All address changes pursuant to the [local unit of government] Address Ordinance, as amended.
7. All Planning reports and plans before publication.
8. Matters which properly come before the [local unit of government] County Designated Solid Waste Planning Agency, pursuant to Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 et seq.)
9. Soil and Sedimentation Control Board of Appeals cases.
10. All matters of business of the [local unit of government] County Resource Conservation and Development Committee, with the Commission acting as that committee.
11. All matters of business of the [local unit of government] County policy committee as created by the [local unit of government] County Remonumentation Plan.
12. All matters of business concerning [local unit of government]'s computer, or digital, Geographic Information System (GIS) as delegated by the [legislative body] on [date] with power to act.
13. Planning Department's and Commission's budget requirements for the fiscal year and request for appropriation.
14. Selection of consultants and determination of basis for compensation and selection of a Planning Director.
15. Such other matters as the Director shall find it advisable or essential to receive consideration by the Commission.

B. Staff Policy. From time to time the Commission shall publish policy to further define and categorize work done by staff for municipalities in [local unit of government] County as:
1. Tasks which are a basic purpose of the County Planning Commission and for which no charge or fee shall be charged.
2. A secondary purpose of the Commission which is to include "assistance" to municipalities in [local unit of government] County for which a fee may or may not be charged, as may be established from time to time by the Commission.
3. A secondary purpose of the Commission which is to include "work" on a contract or for hire basis by municipalities in [local unit of government] County for which a fee shall be charged, as established from time to time by the Commission.

C. Fees. The Commission shall from time to time establish fees for services, municipal "assistance", or municipal "work". Such fees shall not contravene any state statute, county ordinance, or fee established by the [local unit of government] legislative body.

19. Commission staff
A. Authorization. The Commission staff may consist of a Planning Director and such other personnel as may be authorized by the Commission after the budget for the same is approved by the [local unit of government].
1. Planning Director selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering this position as necessary to fill from candidates

County only:
Sections 18.A.8., 18.A.10., and 18.A.11. apply to county planning commissions only, and should be deleted in city, village, and township planning commission bylaws.

Section 18.A.9. does not apply to a township planning commission. Section 18.A.9. should be deleted for a township bylaws and only left in a city or village planning commission bylaws if the city or village is the designated soil and sedimentation control agency.

Commission staff
Section 13 on Commission staff should be omitted if there is no staff. Section 5.M., section 8, section 12.B. and section 12.C. should also be changed to reflect that there is no staff or some other office will handle the functions.
representing more than just the [local unit of government] labor market. Thus, any advertising for this position should appear, in order of priority in:

a. *Planning and Zoning News of Lansing*
b. Newspapers of general circulation in [local unit of government]
c. Michigan State University Career Placement Bulletin
d. University of Michigan Career Placement Bulletin
e. Wayne State University Career Placement Bulletin
f. Central Michigan University Career Placement Bulletin
g. Northern Michigan University Career Placement Bulletin
h. *Detroit News-Free Press* Sunday edition (optional)
i. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).

2. Assistant Planner(s) selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering these positions as necessary to fill from candidates representative of labor markets both in and outside the [local unit of government]. Thus, any advertising for this position should appear, in order of priority in:

a. *Planning and Zoning News of Lansing*
b. Newspapers of general circulation in [local unit of government]
c. Michigan State University Career Placement Bulletin
d. University of Michigan Career Placement Bulletin
e. Central Michigan University Career Placement Bulletin
f. Northern Michigan University Career Placement Bulletin
g. *Detroit News-Free Press* Sunday edition (optional)
h. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).

3. Zoning Administrator(s) selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering these positions as necessary to fill from candidates representative of labor markets both in and outside the [local unit of government]. Thus, any advertising for this position should appear, in order of priority in:

a. *Planning and Zoning News of Lansing*
b. Newspapers of general circulation in [local unit of government]
c. Michigan State University Career Placement Bulletin
d. University of Michigan Career Placement Bulletin
e. Central Michigan University Career Placement Bulletin
f. Northern Michigan University Career Placement Bulletin
g. *Detroit News-Free Press* Sunday edition (optional)
h. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).

4. Planning Department Secretary(ies), Planning Technicians, and Assistant Zoning Administrators selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering this position to be filled from the [local unit of government] labor market area with advertising in local media.

B. General Responsibility. The Commission staff is charged with the duty of preparation and administration of such plans as are authorized by the Commission, appropriate for the [local unit of government] and its environs and are within the scope of the Planning Act and the Zoning Act.

C. Advocacy. The Commission staff shall not attempt to represent the views or comments of a member of the public at a public hearing or Commission meeting. Staff shall indicate a member of the public wishing to make their views known and they should do so directly to the Commission in person, through an agent, or by providing written comment. Staff should avoid situations of appearing to advocate for an individual or group. Nothing herein is intended to prevent staff from helping an individual or group be better informed and to present their own views. Nothing herein is intended to prevent staff from expressing their own views as private citizens.

D. Coordinated Enforcement. To further supplement the small number of staff responsible for inspections and enforcement of various regulations, staff shall report all suspected problems or violations seen during the course of their work. Staff shall follow the following procedures and guidelines:

1. When observing a problem or suspected violation, do not assume a violation exists or confront the suspected perpetrator. Avoid a situation where discussion or confrontation exists in an area outside the staff person's jurisdiction.

2. Report the problem or suspected violation to the [local unit of government] department, county, state, or federal agency which has jurisdiction, as quickly as possible.
3. When observing or receiving a report from another [local unit of government] department, county, state, or federal agency, of a problem or suspected violation, pursue enforcement, or its resolution through normal procedures for the particular situation.

E. Conflict of Interest.

1. All members of the Commission’s staff shall avoid situations which are conflicts of interest, and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
   a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
   b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
   c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
   d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
   e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
   f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
      (1) an applicant or agent for an applicant, or
      (2) has a direct interest in the outcome.

2. When a conflict of interest exists staff shall do all of the following immediately, upon first review of the case and determining a conflict exists:
   a. declare a conflict exists,
   b. cease to process the case any further, and
   c. forward the case, and all pertinent records, to an alternate, assistant, or manager so the case is dealt with by someone else.

3. Other than as part of work for the Commission staff shall not (1) provide private consultation services, or advise on similar related services for clients, (2) provide work in professions or services which is or could be regulated by the Commission (such as, but not limited to planning, zoning, real estate, land development, solid waste, land surveying, architecture, professional and civil engineering, landscape architecture, sociology, economics, geography, political science, public administration consulting or work) within a site within the boundaries of [local unit of government] or for clients who are or may be applicants before the Commission, Zoning Board of Appeals, or the Commission’s staff. This is not intended to prevent a staff person from assisting residents, municipalities, or others seeking help from the Commission, which are normally part of an employee’s duties.

F. Planning Director’s Duties. The Planning Director shall be responsible for the professional and administrative work in directing and coordinating the program of the Commission. His or her work shall be carried on with the widest degree of professional responsibility, subject to the policy determinations and job description as adopted from time to time by the Commission and administrative policies of the County. In addition to any

### Adjacent Land and Conflict of Interest

Some thought should be given to how far away from one’s own property one goes to consider it to be a conflict of interest. In a very small community, with a large distance from the property, it may be hard to ever have a situation which is not a conflict for a number of members of the Commission.

This practical matter should be balanced with the need to avoid the appearance of conflict and actual conflicts.

Courts have only gone as far as the adjacent parcel, and do not consider it a conflict beyond that. Some communities have used a “within 300 feet” standard (the same distance where notices are required).

### Family and Conflict of Interest

Some thought should be given to how expansive, or limited, the list of who is included in “family” is. In a very small community, with an expansive list of family, it may be hard to ever have a situation which is not a conflict. This practical matter should be balanced with the need to avoid appearance and actual conflicts.
1. Recommendations. The Planning Director shall take action or make recommendations in the name of the Commission, in accordance with such plans, policies and procedures as are approved or established by the Commission from time to time. Where there is a serious conflict of interest, public controversy, or uncertainty or doubt as to the plans, policies, or procedures approved or established by the Commission, presentation of the matter shall be made at a Commission meeting.

2. Administrative Duties. The Planning Director shall:
   a. Supervise and review the work of the professional, technical, and nontechnical employees of the Commission staff.
   b. Prepare a proposed annual budget for the Commission and Department to submit to the Commission.

3. Policy Formulation. The Planning Director shall:
   a. Be responsible for carrying out the directives of the Commission.
   b. Advise and assist the Commission in the establishment of general planning policy.
   c. Work with the Chair of the Commission for formulation of staff policy, subject to approval by the Commission.
   d. Recommend to the Commission action necessary for effectuating plans with respect to both public and private endeavors.
   e. Administer zoning and subdivision ordinances.
   f. Prepare drafts of Capital Improvement Programs.
   g. Prepare long range comprehensive plans and other plans.

4. Public Relations. The Planning Director shall:
   a. Officially present the Commission's recommendations to the governing body.
   b. Officially represent the Commission and its staff at planning conferences, interdepartmental meetings of the county government, and serve generally as a liaison between the Commission and the public.
   c. Encourage private development or investment in accord with comprehensive plans.
   d. Cooperate with public and private agencies and with individuals for the development, acceptance, and effectuation of plans.
   e. Supply information for and encourage interested public agencies and citizen organizations in programs to promote public understanding of and government cooperation with planning efforts.
   f. Accept other responsibilities as may be directed by the Commission, Governing Body, or Chief Executive.

5. Commission duties delegated to the Planning Director:
   a. To oversee and coordinate Commission staff teams, pursuant to section 9 of these rules as directed.

G. Other Staff Duties. The Commission shall establish, with consultation with the Planning Director from time to time, updated job descriptions for each staff position in the Planning Department.

---

**Spokesperson**

Section 3.D. of these Bylaws also provides for a spokesperson for the Commission. Make sure the provision in section 3.D. does not contradict with the staff performing that function here. Consider omitting the reference here or editing section 3.D. to make a cross-reference to here (§19.F.4.a.).
Check List # 1F
What should be in a Master Plan?

This fact sheet is designed to be a guide to planning commissions in determining what topics and information to include in a master plan developed under the new P.A. 33 of 2008, as amended, (the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.). The checklist is adapted from materials developed by the Michigan chapter of the American Planning Association.

The Michigan Planning Enabling Act is a new statute that changes how various planning procedures are done and provides new duties and powers to many planning commissions in the state. The entire purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:
1. County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq.
2. Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq.
3. Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq. (For cities, villages, and some township planning commissions created prior to 1959.)

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

The Michigan Planning Enabling Act requires the following to be included in the plan:

“Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.” (§31(2)(a))
The above can be considered the data, or fact book. In addition the plan shall:

“A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission’s recommendations for the physical development of the planning jurisdiction.” (§33(1))

“A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the planning jurisdiction:” (§33(2))

1. A land use plan. (§33(2)(a))
2. Recommendations on infrastructure. (§33(2)(b))
3. Recommendations for redevelopment or rehabilitation of blighted areas. (§33(2)(c))

Glossary

The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.

Local Unit of Government means a county or municipality.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning jurisdiction means the area encompassed by one of the following:

• For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
• For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
• For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
• For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).

Related Publications

There are also separate procedural checklists for performing other planning and zoning functions. They are:
• Land Use Series: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
• Land Use Series: “#1B; Sample Ordinance to create a planning commission”
• Land Use Series: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
• Land Use Series: “Check List #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
• Land Use Series: “#1E; Sample Bylaws for a planning commission.”
• Land Use Series: “Checklist #1F; What Should be in a Master Plan”
• Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan”
• Land Use Series: “Checklist #1H; The Five Year Plan Review.”
• Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan”
• Land Use Series: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
• Land Use Series: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
• Land Use Series: “Checklist #1L; Adoption of Subdivision Rules”
• Land Use Series: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
• Land Use Series: “#1N; How a Planning Commission Should Respond to Submissions”
• Land Use Series, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
• Land Use Series, “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
• Land Use Series, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
• Land Use Series, “Checklist #5: for Processing a Special Use Permit (Including Pud) Application in Michigan.”
• Land Use Series, “Checklist #6: for Processing a Zoning
2. A county general plan, if the county has not adopted (and will not be adopting) a zoning ordinance. (§33(2)(a))

3. If there is zoning, then the plan shall include a zoning plan for the various zoning districts and an explanation of how the land use categories (on the future land use map) relate to the zoning district map. (§33(2)(d))

The Planning Enabling Act allows communities great latitude in determining the contents of a master plan. The act refers to all types of plans as “master plan,” but many communities structure and name their plan according to the specific needs of their area. This list, of types of plans, can be presented as the following:

1. General plan – These items are most relevant for county planning commissions that do not administer a zoning ordinance.

2. Future land use plan – Should be used by counties and all jurisdictions with zoning ordinances and may be used by counties without a zoning ordinance.

3. Comprehensive plan – Includes options for more detailed analysis and recommendations related to a broad range of social, environmental and economic issues.

4. Growth management plan – Includes elements especially relevant for rapidly growing communities.

5. Common elements for all plans – Lists topics and information that could be included in any community’s plan or any type of plan.

6. Other plans – Lists plans that may exist in your community based on other enabling legislation. These may be referenced in the master plan.

Many communities organize their plans into two major sections – the plan that is the meat of the document including the goals, objectives and policies that guide the physical development of the community (§33); and the background information, data book, or fact book that provides data and analyses that support the plan (§31). Some communities have a third, optional, section which is an executive summary, or simply written and heavily illustrated presentation of the plan, a chart, web page, poster, or combination of the above. These two or three sections can be parts of one document or might be two or three separate documents. Communities may also include information and polices by reference to other plans or documents.

Another way to look at the organization of a plan is to look at a table of contents of a sample plan. In Appendix “A” (page 10) of this pamphlet is a sample table of contents. It is very detailed, reflecting a very complete plan. Your community’s plan is likely to have less material in it. This is presented so that you have a complete list of what might be considered.

A note about the Internet: Planning commissions develop extensive printed fact books as a reference and to support master plan policies. With the growth of the Internet, much of this information is now available online and could be included in a plan by reference instead of reproducing in printed form. There are many excellent sources of accurate and relevant information on the web, but there are also other sites that contain inaccurate or out-of-date data. Planning commissions should use professional assistance and great care in identifying reliable Internet-based information sources.2 Also, if the plan, or fact book, makes reference to material on the internet, great care should be used to make sure the web master, or web page editor, does not subsequently change the web site so it can no longer be found or otherwise can not be recovered. Also, if the plan, or fact book, makes reference to material on the internet and adopts it as part of the plan be reference or bases long term conclusions on the web site’s content, great care should be used to make sure the web master, or web page editor, does not subsequently change or update the content of the web site. The content and

---

2Visit these web sites to know how to select credible web pages:
Evaluating Web Pages --University of California Library:
http://www.lib.berkeley.edu/TeachingLib/Guides/Internet/Evaluate.html
Web page evaluation checklist form:
http://www.lib.berkeley.edu/TeachingLib/Guides/Internet/EvalForm.pdf
Evaluating Information Found on the Internet -- The Sheridan Libraries of The John Hopkins University:
http://www.library.jhu.edu/researchhelp/general/evaluating/
For annotated descriptions of many other good guides to evaluating web pages, search the subject "Evaluating Quality on the Net" (http://www.hopetillman.com/findqual.html) in the Librarians' Index to the Internet: http://www.lii.org

---

1A best planning practice, as defined by the Michigan Association of Planning (MAP) Law Committee work on the Coordinated Planning Act (never adopted) and now considered by MAP as best planning practice.
intent of a plan can easily be challenged when web site data it was relying on is inadvertently changed by someone else and no longer reflects what was adopted.

This checklist is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act or for legal advice and professional planner services.

It is important to document each step of the process in planning and zoning a community by keeping detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into seven columns. The first column lists potential plan content elements. The second column is used to indicate if the content element will be included in the plan. Columns three to seven indicate where in the plan that element should be located.

## Minimum Plan Content Required by the Act

According to the Michigan Planing Enabling Act, at a minimum, the following elements are to be a part of a plan.

<table>
<thead>
<tr>
<th>1. Minimum Statutory Plan Content</th>
<th>2. Do we want to include this element in the plan?</th>
<th>3. The plan</th>
<th>4. The background information or fact book</th>
<th>5. An optional summary document (poster, flyers, executive summary)</th>
<th>6. Reference to other plans</th>
<th>7. Reference to other sources such as the Internet</th>
</tr>
</thead>
<tbody>
<tr>
<td>A section addressing land use and infrastructure issues and may project 20 years or more into the future. (Sec. 33(1))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps, plats, charts, and descriptive, explanatory, and other related matter. (Sec. 33(1))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A future land use map is required as a part of the land use plan element of the master plan. (Sec. 33(2)(d))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Show the planning commission’s recommendations for the physical development of the planning jurisdiction. (Sec. 33(1))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations for implementing any of the master plan’s proposals. (Sec. 33(2)(e)) Note: All jurisdictions should have a section detailing recommendations for implementation. (Sec. 33(2)(e))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission made careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions. (Sec. 31(2)(a))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Minimum Statutory Plan Content</td>
<td>2. Do we want to include this element in the plan?</td>
<td>3. The plan</td>
<td>4. The background information or fact book</td>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
<td>6. Reference to other plans</td>
<td>7. Reference to other sources such as the Internet</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------</td>
<td>-------------</td>
<td>---------------------------------</td>
<td>-----------------------------</td>
<td>-------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission consulted with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided. (Sec. 31(2)(b))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission cooperated with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and sought the maximum coordination of the local unit of government's programs with these agencies. (Sec. 31(2)(c))</td>
<td>Shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): A proposed schedule of regulations by district that includes at least, building height, lot area, bulk, and setbacks. (Sec. 33(2)(d))</td>
<td>If there is zoning, then these elements shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): the standards or criteria to be used to consider rezonings consistent with the master plan.</td>
<td>If there is zoning, then these elements shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): An explanation of how the land use categories on the future land use map relate to the districts on the zoning map. Sec. 33(2)(d) (prerequisite to this requirement is (1) a description of each zoning district, and (2) a proposed zoning map.</td>
<td>If there is zoning, then these elements shall be included</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Minimum Statutory Plan Content</td>
<td>2. Do we want to include this element in the plan?</td>
<td>3. The plan</td>
<td>4. The background information or fact book</td>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
<td>6. Reference to other plans</td>
<td>7. Reference to other sources such as the Internet</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------------------------</td>
<td>------------</td>
<td>---------------------------------</td>
<td>---------------------------------</td>
<td>----------------</td>
<td>----------------------------------</td>
</tr>
</tbody>
</table>

For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): A description of each of the zoning districts (including proposed new ones), the general purpose of each district, a general description of the class of uses to be permitted in each district, and the general locations for those types of districts. Use classes include single family residential, multiple family residential, commercial, office, industrial, agricultural, forestry, mining, etc.

If there is zoning, then these elements shall be included.

If there is zoning, then these elements shall be included.

**Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction":**

For a county, documentation that the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole. (Sec. 31(1)(a))

**Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction":**

For a township that on the effective date of this act had a planning commission created under former 1931 PA 285, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality. (Sec. 31(1)(b))
| 1. Minimum Statutory Plan Content | 2. Do we want to include this element in the plan? | 3. The plan | 4. The background information or fact book | 5. An optional summary document (poster, flyers, executive summary) | 6. Reference to other plans | 7. Reference to other sources such as the Internet |

*Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:* A classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public transportation facilities (as of Dec. 23, 2010), public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. (If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702), a land use plan and program for the county may be a general plan with a generalized future land use map. (Sec. 33. (2)(a)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.

*Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:* The general location, character, and extent of all components of a transportation system and their interconnectivity including streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, waterfront developments (complete streets); sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures. (Sec. 33. (2)(b)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.
This is the first of three ways to evaluate the content of your plan. The table above should be considered the legal minimum. Most plans should contain much more.

**Best Planning Practice**

**Plan Content**

The following checklist is adapted from materials developed by the Michigan chapter of the American Planning Association, from their work toward a Coordinated Planning Act (never adopted). It provides a rather complete list of the analysis that should be a part of a plan and fact, or data, book.

Following this table, in Appendix A (page 10), is a sample table of contents for a plan, data or fact book, and summary. It gives just one example of how information in a plan might be organized.

Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:

- Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities. (Sec. 33. (2)(c) (Recommendations for redevelopment may or may not be included as pertinent, and a zoning plan.)

Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”: If a master plan is or includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality. (Sec. 33. (3)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.
<table>
<thead>
<tr>
<th>1. Plan Content</th>
<th>2. Do we want to include this element in the plan?</th>
<th>Where should this element be located in the plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Do we want to include this element in the plan?</td>
<td></td>
<td>3. The plan</td>
</tr>
<tr>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
<td>6. Reference to other plans</td>
<td>7. Reference to other sources such as the Internet</td>
</tr>
</tbody>
</table>

**General Plan**
Is a policy-based plan with generalized future land use maps.

Include a section on affordable housing needs and a strategy to meet those needs.

Include a section on job development and a strategy to meet those needs.

Address the relationship between jobs, housing, and transportation within the local unit of government or region.

Include a separate section on multimodal transportation including streets and highways, public transit, airports, railroads, ports, and pedestrian and bicycle ways.

A section on capital facilities owned or operated, or both, or privately contracted by the local unit of government, together with long-range fiscal plans for the provision of new capital facilities for the local unit of government.

The plan shall be the basis for the county or regional capital improvement program including capital improvements to be done by a county road commission, drain commissioner, parks and recreation commission, department of public works, or other county board or commission.

Provide an analysis of all the municipal or joint municipal plans of municipalities within the county to ensure coordination and consistency, including, but not limited to, buildout, economic, fiscal, environmental, and social impact analyses.

A plan may incorporate by reference plans, or portions of plans, adopted by other agencies of political subdivisions, a regional plan, this state, or the federal government.

Include such other elements as determined by the planning commission.

**Future Land Use Plan**
Each element of the General Plan, above.

The arrangement of future land uses, as well as the intensity and density of such uses.
<table>
<thead>
<tr>
<th>Plan Content</th>
<th>2. Do we want to include this element in the plan?</th>
<th>Where should this element be located in the plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>An explanation of the future land uses’ degree to which they are or are not compatible with the future land use plans and zoning regulations of adjoining jurisdictions, municipalities within the county, or the management plans of state or federal agencies with public lands within the county</td>
<td>3. The plan</td>
<td>4. The background information or fact book</td>
</tr>
<tr>
<td>Future land use shall be described in the text and depicted on a future land use map showing the general location and arrangement of future land uses, but not parcel lines.</td>
<td></td>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
</tr>
<tr>
<td>A future transportation network, including, but not limited to, roads and streets, bridges, railroads, airports, bicycle paths, and pedestrian ways.</td>
<td></td>
<td>6. Reference to other plans</td>
</tr>
<tr>
<td>Provision for a network of electronic communication facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future capital facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A zoning plan for the control of the height, area, bulk, density, location, and use of buildings and premises, for current and future zoning districts.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>An explanation of the zoning plan’s relationship to the future land use plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A description of how the community intends to move from present conditions illustrated on the current zoning map and described in the zoning plan to the proposed future relationship of land uses illustrated on the future land use map.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A discussion of measures considered and included in the development of the future land use plan to avoid possible takings of private property without just compensation if land use regulations were to be subsequently adopted or amended consistent with the plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Each of the elements of a future land use plan, above, should incorporate goals, objectives, policies, and strategies to be employed in fulfilling the plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Each element of a future land use plan should utilize maps and, if helpful, plats, charts, and tables. Maps, plats, charts, and tables should be accompanied by descriptive explanatory text.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Check List #1F: What should be in a Master Plan?
Michigan State University Extension Land Use Series
Page 10 of 17
December 23, 2010
<table>
<thead>
<tr>
<th>1. Plan Content</th>
<th>2. Do we want to include this element in the plan?</th>
<th>Where should this element be located in the plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan</td>
<td>Each element of the General Plan and land use plan, above.</td>
<td>3. The plan</td>
</tr>
<tr>
<td></td>
<td>Recommendations for the social, environmental, economic, or physical development or redevelopment of the jurisdictional area. The plan should identify the amount and source of the fiscal and other resources to be used to implement the recommendations in the plan.</td>
<td>4. The background information or fact book</td>
</tr>
<tr>
<td></td>
<td>An analysis of existing community social and economic disparities in employment, income, housing, transportation, education, and crime and recommendations for public and private measures to rectify disparities.</td>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
</tr>
<tr>
<td></td>
<td>A section on multimodal transportation facilities, together with long-range fiscal plans for the provision or replacement of transportation facilities. (This may be part of the future transportation network (master street plan) element of a Future Land Use Plan.)</td>
<td>6. Reference to other plans</td>
</tr>
<tr>
<td></td>
<td>Information on capital facilities necessary for the comprehensive plan to serve as the basis for the development and annual updating of a capital improvement program including a map of the location of new capital facilities on which construction is proposed to begin within a period at least as long as that covered by a capital improvement program.</td>
<td>7. Reference to other sources such as the Internet</td>
</tr>
<tr>
<td></td>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for housing, including, but not limited to, the condition of existing housing and specific needs for affordable and assisted housing, and analysis of options for meeting those needs.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Economic development, including both job retention and promotion strategies.</td>
<td></td>
</tr>
<tr>
<td>1. Plan Content</td>
<td>2. Do we want to include this element in the plan?</td>
<td>Where should this element be located in the plan?</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Natural resources management, including, but not limited to, agricultural and forest lands, mineral lands, wetlands, floodplains, headwaters areas, sand dunes, areas at high risk of erosion, other sensitive areas, endangered or threatened species habitat, and land use related to preserving biodiversity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Measures to define, protect, enhance, or change community character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Growth Management Plan</strong> Each element of the General Plan, land use plan, and comprehensive plan, above.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The boundaries for expansion of capital facilities and/or public services of local units of government during the period of the plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum density of land use based on available public services and facilities and specified level of service standards for those services and facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The plan should be consistent with P.A. 110 of 2006, as amended, (Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.) pursuant to P.A. 12 of 2007 for a purchase of development rights program, and/or to the extent permissible by law, transfer of development rights program.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps showing the location of proposed future road right-of-way and of other public facilities beyond 5 years in the future.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A strategy and locations to target provision of affordable housing.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A strategy that links future jobs, housing, and transportation in mutually supportive ways.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A strategy for land assembly and redevelopment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other elements as necessary to implement the growth management or redevelopment goals of the plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Include as part of the Plan, or as separate plans some or all of:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil and water conservation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Plan Content</td>
<td>2. Do we want to include this element in the plan?</td>
<td>3. The plan</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Open space protection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intergovernmental coordination.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human services, including, but not limited to, childcare services, senior citizen programming, and mental health services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Historic preservation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coastal zone management.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solid waste management.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Energy conservation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Watershed planning and management.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community corrections.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annexation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redevelopment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special purpose, sub-area (M.C.L. 125.3835), functional, neighborhood, corridor, or strategic plans.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Incorporate, by reference to relevant portions of other plans, including any of the following adopted plans that apply to the territory covered by the planning commission:**

A development plan adopted by a tax increment finance authority under P.A. 450 of 1980, as amended, (the Tax Increment Finance Authority Act, M.C.L. 125.1801 et. seq.).

A development plan adopted by a downtown development authority under P.A. 197 of 1975, as amended, (M.C.L. 125.1651 et. seq.).

A development plan adopted by a local development finance authority under P.A. 281 of 1986, as amended, (the Local Development Financing Authority Act, M.C.L. 125.2151 et. seq.).

A development plan adopted by an international tradeport development authority under P.A. 325 of 1994, as amended, (the International Tradeport Development Authority Act, M.C.L. 125.2521 et. seq.).

A brownfield plan adopted by a brownfield redevelopment authority under P.A. 381 of 1996, as amended, (the Brownfield Redevelopment Financing Act, M.C.L. 125.2651 et. seq.).
<table>
<thead>
<tr>
<th>1. Plan Content</th>
<th>2. Do we want to include this element in the plan?</th>
<th>3. The plan</th>
<th>4. The background information or fact book</th>
<th>5. An optional summary document (poster, flyers, executive summary)</th>
<th>6. Reference to other plans</th>
<th>7. Reference to other sources such as the Internet</th>
</tr>
</thead>
<tbody>
<tr>
<td>A plan adopted by a county or regional economic development commission under P.A. 46 of 1966, as amended, M.C.L. 125.1231 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A project plan adopted by an economic development corporation under P.A. 338 of 1974, as amended, (the Economic Development Corporations Act, MCL 125.1601 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A plan adopted by a housing commission under P.A. 18 of 1933 (Extra Session), as amended, (M.C.L. 125.691 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan approved by a planning commission and supervising agency under P.A. 250 of 1941, as amended, (the Urban Redevelopment Corporations Law, M.C.L. 125.901 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A county or regional park or recreation plan adopted by a county or regional commission under P.A. 261 of 1965, as amended, (M.C.L. 46.351 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An airport approach plan adopted by the aeronautics commission under P.A. 23 of 1950 (Extra Session), as amended, (the Airport Zoning Act, M.C.L. 259.431 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A school district plan adopted by a public school district or charter school.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A sewer or water plan adopted by a local unit of government or joint sewer and water authority.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A solid waste management plan adopted pursuant to Part 115 of P.A. 451 of 1994, as amended (the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 et seq.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A blighted area rehabilitation plan adopted pursuant to P.A. 344 of 1945, as amended, M.C.L. 125.71 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A neighborhood area improvement plan adopted pursuant to P.A. 208 of 1949, as amended, (M.C.L. 125.941 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Plan Content</td>
<td>2. Do we want to include this element in the plan?</td>
<td>3. The plan</td>
<td>4. The background information or fact book</td>
<td>5. An optional summary document (poster, flyers, executive summary)</td>
<td>6. Reference to other plans</td>
<td>7. Reference to other sources such as the Internet</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------------------------------</td>
<td>-------------</td>
<td>---------------------------------</td>
<td>-------------------------------------------------</td>
<td>-------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>A plan for redevelopment of principal shopping areas under P.A. 120 of 1961, as amended, (M.C.L. 125.591 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise or empowerment zone plans pursuant to P.A. 224 of 1985, as amended, (M.C.L. 125.2101 et seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any capital facility or other metropolitan plan prepared by a metropolitan council under P.A. 292 of 1989, as amended, (M.C.L. 124.651 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix A
Sample Table of Contents of a Plan, Fact Book, and summary.

**Executive Summary**

A summary of the Plan, or simply written and heavily illustrated presentation of the plan, a chart, web page, poster, or combination of these.

---

**Sample Plan Table of Contents includes:**

- Glossary
- Introduction
  - Acknowledgments
  - About the Planning Commission (Subcommittees of the Plan Committee of the Wexford County Planning Commission, Staff & Author, Legislative Body, Location Map
  - About This Plan
  - Legal Authority

**Overall Plan**

- Community Wide Goals (Fundamental Principles, overall goals such as Smart Growth.)
- Government Cooperation (Federal, State, Native American Tribes, Canada, County, Neighboring Municipalities and Counties)

**Land Use Plan**

- Future Land Use Map
  - Industrial
  - Commercial
  - Office Service
  - Resort
  - Residential
  - Rural Residential
  - Agricultural-Forest Production
  - Special and Unique Areas
  - Transition Areas
- Zoning Plan Update

**Environment, Natural Resources Plan**

- Environmental Protection
- Ground and Surface Water Protection
- Recycling, Solid and Hazardous Waste

**Economic Plan**

- Economic Development
- Tourism

**Human Services and Housing Plan**

- Human Services
- Housing

**Infrastructure Plan**

- Transportation
- Recreation
- Water and Sewer

**Appendices and Addendums**

- Plan Adoption Documentation (65 Day Comments by Governments, Public Hearing Comments, Adoption Documentation, Type of Plan This

---

**Sample Fact Book table of contents includes:**

- Introduction, Acknowledgments, Summary. (Maps: County or Municipality Location Map).
- Glossary
- Former Plans.
- Geography: Geology; Location; Climate (Maps, Charts, and Graphs: Quaternary Geology, Topographic, Daily Temperatures Graph.
- History: Narrative for a regional perspective and region-wide common points; historic sites list; Government Land Survey history; municipal size; list of first order control points (Maps, Charts, and Graphs: Historic Population Data Table; Political Boundaries Maps for 1800 to present)
- Land Use: Land Use/Cover Change (Agricultural; Forestry; Urban (Sprawl, Residential, Open Lands/Parks, Commercial, Transportation, Industrial, Extractive; urban growth area); Rangelands/Fields/Grassland; Water and Wetlands; Future Land Use; and areas of minor change. Maps, Charts, and Graphs: Land Use/Cover Table, Land Cover Circa 1800 (Pre-European Settlement Vegetation) Map, pre-1978 land use maps, Land Use/Cover Map 1978 (MiRIS), current Land Use/Cover Map, Land Use/Cover Change analysis maps, Farmland With State Preservation Agreements in Place “PA 116 Agreements.”)
- Natural Resources: Surface Water, Surface Water Inventory, Groundwater; On Site Sewage Disposal (Restricted Areas for Septic and Drain Fields, New Technology, Soils With Limitations for Wastes & Industrial Development); Soils (summary of soil survey), detail of Soil Characteristics; Forestry (Old Growth); Agriculture; Mineral Resources. (Maps, Charts, and Graphs: Major Watersheds, Surface Water Features, Wetlands, Aquifer Vulnerability to Surface Contamination in Michigan, Soil With High Water Table Map (Aquifer Vulnerability to Surface Contamination), General Soil Types, Forest Production Potential Map (soil types), Old Growth Forests, Agricultural Production Potential Map (soil types), Limitations of Soils for Septic Systems, Slope Characteristics of Soil Types (Steep Slopes)).
- Environment: Air and Water Pollution (Soil Erosion and
Michigan State University Extension Land Use Series

Check List #1F: What should be in a Master Plan?

Page 17 of 17

December 23, 2010
Check List # 1G
For Adoption of a Plan in Michigan

This is a step-by-step procedure for planning, specifically plan adoption. It is designed to provide a list of steps -- in order -- which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.), recommendations of Kurt H. Schindler, MSU Extension Regional Land Use (planning and zoning) Educator, Bradley Neumann, MSU Extension Land Policy Educator, and intergovernmental coordination and plan content “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan Chapter of the American Planning Association. In the check list, most of the items marked “optional” are derived from the proposed Coordinated Planning Act, not the current statute.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

• County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq. See MSU Extension Land Use Team’s Land Use Series, “Checklist #C1; for Adoption of a County Plan in Michigan.”

• Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq. See MSU Extension Land Use Team’s Land Use Series, “Checklist #T1; for Adoption of a Township Plan in Michigan.”

“Thirty seven million acres is all the Michigan we will ever have.”

Former Governor William G. Milliken

Michigan State University Extension Land Use Team

http://ntweb11a.ais.msu.edu/luaoe/index.asp

MSU is an affirmative-action, equal-opportunity institution. Michigan State University is an affirmative-action, equal-opportunity institution. Michigan State University Extension is an affirmative-action, equal-opportunity educational institution. Michigan State University Extension operates without discrimination in all programs, policies, and practices and encourages full participation by all people. Michigan State University Extension programs and activities operate on non-discriminatory bases.

Author:
Kurt H. Schindler, REGIONAL LAND USE EDUCATOR
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindl9@msu.edu
overland mail: MSU Extension, Wexford County 401 N. Lake Street Cadillac, Mich. 49601-1891

The author would like to thank the following individuals for their review and assistance with this publication:
• Jason Ball, MSU GRADUATE STUDENT
• Brad Neumann, LAND POLICY EDUCATOR, St Joseph County
• Jasneet Sharma, LAND POLICY EDUCATOR, Hillsdale and Lenawee Counties
• Lincoln Sweet, MSU GRADUATE STUDENT
• Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq. (For cities, villages, and some township planning commissions created prior to 1959.) See MSU Extension Land Use Team’s Land Use Series, “Checklist #M1; for Adoption of a City and Village Plan in Michigan.”

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

Related Publications
There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series**: "Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance."
- **Land Use Series**: "#1B; Sample Ordinance to create a planning commission"
- **Land Use Series**: "#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act."
- **Land Use Series**: "Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act"  
- **Land Use Series**: "#1E; Sample Bylaws for a planning commission."
- **Land Use Series**: "Checklist #1F; What Should be in a Master Plan"
- **Land Use Series**: "Checklist #1G; For Adoption of a Plan in Michigan"
- **Land Use Series**: "Checklist #1H; The Five Year Plan Review."
- **Land Use Series**: "Checklist #1I; For Adoption of an Amendment to a Plan"
- **Land Use Series**: "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- **Land Use Series**: "Checklist #1K; Review of Infrastructure and Public Capital Expenditure"
- **Land Use Series**: "Checklist #1L; Adoption or Amendment of Subdivision Rules"
- **Land Use Series**: "#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan"  
- **Land Use Series**: "#1N; How a Planning Commission Should Respond to Submissions"
- **Land Use Series**: "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- **Land Use Series**: "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- **Land Use Series**: "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan"  
- **Land Use Series**: "Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan."
- **Land Use Series**: "Checklist #6; for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

Glossary
The following terms are used in this publication, and have the following specific meanings.

- § means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).
- **Chief administrative official** means the manager or other highest nonelected administrative official of a city or village.
- **Chief elected official** means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
- **Ex officio member** means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.
- **Legislative Body** means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.
- **Local Unit of Government** means a county or municipality.
- **Municipality** means a city, village or township.
- **Plan** means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- **Planning Commission** means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- **Planning jurisdiction** means the area encompassed by one of the following:
  - For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
  - For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
  - For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
  - For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly adopt a plan. The third column is what should be included in a permanent file to document that work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 1: The decision is made to: A. Prepare a new plan (see Land Use Series: “Checklist #1H; The Five Year Plan Review”); or B. Start work on the first plan by a new planning commission (see: Land Use Series, “Checklist #1A; To create a planning commission”); or C. Start work on a new successive part of the plan (§ 39(1)); or D. Start work on a subplan (a plan, or part of a plan for a specific geographic area (§ 35 and § 33(4)).</td>
<td>Copy of the minutes where the decision to start the planning process was made.</td>
</tr>
</tbody>
</table>
**Check List**

☐ Task is done

☐ In the file

**Step/Task to do**

**STEP 2.** The planning commission should start work on the plan by first establishing a system of coordination and communication with other governments (§ 39(2)). In order to do so, a notice shall be sent which (1) shall explain the planning commission intends to prepare a plan (specify what type/part), (2) shall request cooperation and comment on the plan, (3) may state the intent to submit electronically (such as email or on a web site) any information required to be submitted, and (4) if it is a subplan shall indicate if the intent is to provide further notices or not.

(Electronic means may be used for notices, submission of comments and draft plans unless the receiver of this notice objects. If an objection is received, then such information shall be submitted in writing by first-class mail or personal delivery (§ 39(3)).)

(Further notices concerning subplans do not need to be sent, unless the receiver of this notice objects. If an objection is received, then future notices about the subplan shall be submitted (§ 45(1)(c)).)

This first notice shall be sent by first class mail to each of the following:

1. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 39(2)(a)).

2. If it is a county plan, the regional planning commission for the region in which the county is located (§ 39(2)(b)).

3. If it is a county plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 39(2)(c)).

4. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is not a county planning commission, then the notice is sent to both the County Board of Commissioners and the regional planning commission for the region in which the municipality is located (§ 39(2)(d) and § 39(2)(e)).

5. For any plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 39(2)(f)). (Anyone listed in number 5 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)

6. If the plan is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 39(2)(g)).

7. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s jurisdiction.

8. (Optional) For any plan, each state, federal, Native American tribe government agencies which own more than 10 acres of land within the planning commission’s local unit of government; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups.

This notice might be delayed until after the preliminary studies (step 4) are done if the community wants to consider the “start” of planning taking place after that step, but in any case this notice should be sent out before the start of the plan preparation (step 5).

Other means of cooperation can also include joint meetings, or a committee to prepare the plan whose membership includes representatives of all those receiving notices.

Best planning practice is that a plan should coordinate the plans of those entities listed in this step to receive notice. A plan should not contravene with the plans of those entities. Thus obtaining and reviewing those plans should also be done. If there are inconsistencies making compliance with each plan difficult, one of the purposes of a county planning commission is to provide guidance as to which plan(s) to follow.

**Documents to file**

Copy of the notices, list of who notices were sent to and an affidavit indicating when they were sent.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **STEP 3.** Work on drafting a plan should start. Planning should be in cooperation with other jurisdictions deemed to be related to the planning of the local unit of government drafting the plan ([§ 31(2)(b)]).

In cities, villages, and townships formed under the Municipal Planning Act (M.C.L. 125.31 *et seq.*); a plan can include planning for any areas outside of the planning commission’s local unit of government boundaries (planning jurisdiction) which, in the planning commission’s judgement, bears relation to the planning of the planning commission’s local unit of government. ([§ 31(1)])

The planning commission of all jurisdictions may meet with other governmental planning commissions to deliberate ([§ 31(2)(b)]).

If the plan is for a local unit of government with an adopted zoning ordinance then the plan shall include a “zoning plan” for the various zoning districts ([§33(2)(d)]). A zoning plan can be a chapter, intermingled throughout the plan, or a separate document. The zoning plan shall include an explanation of how land use categories on the future land use map relate to the districts in the zoning map. | Notes or minutes of joint meetings, or copies of letters. |
| ☐ In the file |                                                                                                                                                                                                                     |                                                                                   |
| ☐ Task is done | **STEP 4.** In preparation of a plan, studies of existing conditions and probable growth should be done for the basis of the plan and in regard for neighboring jurisdictions ([§ 31(2)]).

The planning commission may make use of expert advice and information from federal, state, county, and municipal officials, departments, and agencies having information, maps, and data pertinent to the planning jurisdiction ([§ 25(2)]). | Copies of studies, documents, and reports leading up to the preparation of the plan. Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner. |
| ☐ In the file |                                                                                                                                                                                                                     |                                                                                   |
STEP 5. A plan shall address land use and infrastructure issues and may project 20 years or more into the future. A plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the planning jurisdiction (§ 33(1)).

A plan shall also include those of the following subjects that reasonably can be considered pertinent to the future development of the planning jurisdiction (§ 33(2)):

- A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public transportation facilities (as of Dec. 23, 2010), public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan Zoning Enabling Act, 2006 PA 110, M.C.L. 125.3101 et seq., a land use plan and program for the county may be a general plan with a generalized future land use map (§ 33(2)(a)).
- The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures (§ 33(2)(b)).
- Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities (§ 33(2)(c)).
- For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map (§ 33(2)(d)).
- Recommendations for implementing any of the master plan's proposals (§ 33(2)(e)).
- If a master plan is, or includes, a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality (§ 33(3)).

There are a number of different types of plans which might be prepared. See Land Use Series: “Checklist #1F; What Should Be in a Master Plan.”
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] Task is done</td>
<td>STEP 6. The planning commission acts to submit the proposed plan to the legislative body for review and comment (§ 41).</td>
<td>Certified copy of the minutes approving the proposed plan which was submitted to the legislative body.</td>
</tr>
<tr>
<td>[ ] In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Task is done</td>
<td>STEP 7. The legislative body acts on the proposed plan: A. Approving distribution of the proposed plan. If approved, the governing body notifies the secretary of the planning commission (§ 41(2)). Then go to Step 8. B. Does not approve distribution. The process of adopting the plan stops (§ 41(1)). Go back to Step 5. At this point, if not already done, the legislative body may consider adopting, or not adopting, a resolution which asserts the right of the legislative body to approve or reject the plan in steps 16 and 17 (§ 43(3)). (The resolution which asserts the right of adoption can take place at any time. For a given plan, this is the step where the plan is before the legislative body, and such a resolution could be considered.)</td>
<td>Certified copy of the legislative body minutes approving distribution of the proposed plan. If adopted, a certified copy of the legislative body’s minutes adopting the resolution which asserts the right of the legislative body to adopt the plan and/or amendments.</td>
</tr>
<tr>
<td>[ ] In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Check List** | **Step/Task to do** | **Documents to file**
---|---|---
- Task is done | **STEP 8.** The secretary of the planning commission shall submit (§ 39(3)) a proposed copy of the plan for review and comment to (Unless it is a subplan that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c), see step 2.):
  1. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 41(2)(a)).
  2. If it is a county plan, the regional planning commission for the region in which the county is located (§ 41(2)(b)).
  3. If it is a county plan the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 41(2)(c)).
  4. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is no county planning commission, then the notice is sent to both the County Board of Commissioners and the regional planning commission for the region in which the municipality is located (§ 41(2)(d) and § 41(2)(e)).
  5. For any plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 41(2)(f)). (Anyone listed in number 5 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)
  6. If the plan is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 41(2)(g)).
  7. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government.
  8. (Optional) For any plan, each state, federal, Native American tribe government agencies which own more than 10 acres of land within the planning commission’s local unit of government; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups.

(Notice of the hearing (step 12) may be included with this submission (§ 43(1)).)

At the same time as the above number 4, the secretary of a municipal planning commission shall also submit (§ 39(3)) a signed statement:
  1. To the county planning commission, that number 1, above, has been done;
  2. If there is not a county planning commission, that numbers 1 and 4 have been done.

The statement shall include the name and address of each planning commission or legislative body to which a copy of the proposed plan was submitted and the date of submittal (§ 41(2)(e)).

Copy of the submission of the proposed plan, list of who submission was sent to and an affidavit indicating when they were sent.

Copy of the statement submitted to the County Planning Commission/County Board verifying and listing submissions.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 9. Those local units of governments, regional planning commissions, public utility companies, and railroads receiving the plan in step 8 have up to 63 days to submit comments on the proposed plan. Those planning review comments, or submissions, shall be sent to the planning commission which prepared the plan being reviewed (§ 41(3)).</td>
<td>Copy of each comment submitted.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| ☐ Task is done | STEP 10. The county planning commission (or county board of commissioners if there is no county planning commission) shall submit comments to the planning commission within 63 days of step 8. The comments shall include, but are not be limited to the following, as applicable (§ 41(3)):  
   1. A statement indicating if the county planning commission considers the proposed plan inconsistent with the plan of any city, village, township, or region that received a copy of the plan in step 10 (§ 41(3)(a)).  
   2. If the county has a county plan, a statement whether the county planning commission considers the proposed plan to be inconsistent with the county plan (§ 41(3)(b)).  
   The county’s comments are advisory only (§ 41(4)). | Copy of each comment submitted.                                                                         |
| ☐ In the file |                                                                                                                                                                                                                                                                                                                                                                                                      |
| ☐ Task is done | STEP 11. (Optional) The planning commission prepares a response to the comments received at the end of the 63 days which:  
   1. Changes the proposed plan as a result of the comment submitted,  
   2. Prepares a preponderance of reasons why the proposed plan should not be changed as a result of the comment submitted. | Copy of the changes to the proposed plan or reasons why it is not changed, possibly placed in an appendix of the plan.                                        |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **STEP 12.** The planning commission, by resolution adopted by majority vote, acts to hold a public comment period and then a hearing on the plan. The hearing on the plan must occur 63 days after step 8 is done and after steps 9 and 10 are completed (§ 43(1)). Notice for the hearing shall require:  
1. Publishing a notice of the hearing in a newspaper of general circulation in the local unit of government. The notice is printed not less than 15 days before the hearing by 1 publication in the newspaper and in the official gazette, if any, of the municipality (§ 43(1)).  
2. Sending a copy of the notice to each of those entities listed in Step 8 (§ 43(1)) (each city, village, or township located within or contiguous to the city or village; county the city or village is within; regional planning commission; each contiguous county; each public utility company and railroad company).  
   Unless it is a subplan that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c)), see step 2.  
3. (Optional) Send a copy of the notice to each state, federal, Native American tribe governments and agencies which own more than 10 acres of land within the planning commission’s local unit of government;  
4. (Optional) Additional publicity to whomever and in whatever forms desired.  
   Notices should include the place (such as a local library, and on an Internet site) and times people can borrow, read, or copy the proposed plan; where to mail comments; and where and when the hearing will be held. | Certified copy of the resolution.  
Copy of the notices, list of who notices were sent to and an affidavit indicating when they were sent.  
Newspaper affidavits of publication. |
| ☐ Task is done | **STEP 13.** The planning commission holds a formal hearing on the plan (§ 43(1)) more than 63 days after step 8. | Copy of minutes of the hearing. |
| ☐ Task is done | **STEP 14.** (Optional) The planning commission prepares a response to the comments received at the public hearing which:  
1. Changes the proposed plan as a result of the comments made at the hearing,  
2. Prepares a preponderance of reasons why the proposed plan should not be changed as a result of the comment made at the hearing. | Copy of the changes to the proposed plan or reasons why it is not changed, possibly placed in an appendix of the plan. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>STEP 15. The planning commission, by resolution, votes to adopt the plan. For the plan to be adopted (§ 43(2)):&lt;br&gt;1. A city or village planning commission resolution of plan adoption must have ⅔ vote in favor.&lt;br&gt;2. A township or county planning commission resolution of plan adoption must have a majority of the entire membership vote in favor.&lt;br&gt;The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the whole or part of the plan. The action taken shall be recorded on the map and plan and descriptive matter and signed by the chairperson or the secretary of the planning commission. A copy of the resolution of adoption shall be reproduced on the plan’s inside front cover or inside of the plan’s back cover and on any plan maps. (§ 43(2)).&lt;br&gt;On the date of adopting the above resolution, if the legislative body did not adopt a resolution to assert its right to approve or reject the plan (step 7), then skip to step 18. If the legislative body did adopt such a resolution, go to step 16.</td>
<td>Certified copy of minutes where vote is made to adopt the resolution.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>STEP 16. The planning commission secretary shall submit the plan to the legislative body (§ 43(2)).</td>
<td>Certified copy of Planning Commission minutes referring the plan to the legislative body.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>STEP 17. If the legislative body adopted a resolution to assert its right to approve or reject the plan (step 7) before step 15 was done, the legislative body acts on the plan (§ 43(3)):&lt;br&gt;1. Rejecting the plan and submitting to the planning commission a statement of objections. The planning commission shall consider the objections and revise the plan to address the objections, then go to step 12.&lt;br&gt;2. Approves the Plan (Go to step 18.)&lt;br&gt;If adopted, a copy of the resolution of adoption shall be reproduced on the amended plan’s inside front cover or inside of the plan’s back cover and on any amended plan maps. (§ 43(2)).</td>
<td>Certified copy of City or legislative body minutes of when adoption took place.</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
</tbody>
</table>
| □ Task is done | STEP 18. After adoption of the plan the secretary of the planning commission sends (§ 39(3)) a copy of the adopted plan to the following (§ 43(5)). (Unless it is a subplan that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c), see step 2.):  
1. The legislative body and/or the clerk of the local unit of government, and in the case of a county a certified copy of the plan to the County Board.  
2. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 41(2)(a)).  
3. If it is a county plan, the regional planning commission for the region in which the county is located (§ 41(2)(b)).  
4. If it is a county plan the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 41(2)(c)).  
5. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is not a county planning commission, then the notice is sent to both the County Board of Commissioners and regional planning commission for the region in which the municipality is located (§ 41(2)(d) and § 41(2)(e)).  
6. For any plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 41(2)(f)). (Anyone listed in number 6 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)  
7. If the plan is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 41(2)(g)).  
8. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government.  
9. (Optional) For any plan, each state, federal, Native American tribe government agencies which own more than 10 acres of land within the planning commission’s jurisdiction; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups.  
10. (Optional) Library of Michigan, Michigan State University Library, and all libraries which are in or near the local unit of government.  
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 19. (Optional) If a county plan covers incorporated areas (city or village) within the county, the county plan may be adopted by the city or village by following the same steps as found in this checklist (§ 47(1)). If that is done, then the county plan can serve as the city or village plan. A county plan is automatically part of a city or village plan if the city or village is subject to county zoning through an urban cooperation act agreement for having county zoning in the city or village (§ 47(2)).</td>
<td>Copy of the respective municipal legislative body’s minutes.</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**STEP 20. Implementation of the Plan:**

1. **Coordination/Cooperation:**
   - A. The planning commission can promote the plan, publish copies, summaries, and distribute information on the plan (§ 51(1)).
   - B. The planning commission shall consult and advise public officials, agencies, public utilities, civic, educational, professional, and other organizations concerning promotion and implementation of the plan (§ 51(2)).
   - C. If the planning commission is a county planning commission, request and keep copies of all zoning ordinances adopted in the county (§ 69).
   - B. Submitting comment during a 63 day period (42 days for amendments) of proposed plans for local units of governments located within or contiguous to the planning commission’s local unit of government (§ 41(3)).

2. **Infrastructure:**
   - A. Proceeding to write and adopt a capital improvements program (new upgrading roads, parks, sewer, water drainage, buildings, etc.) (§ 65 - § 67).
   - B. Infrastructure review (§ 61(1), § 61(2), and § 63)

A street; square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission:
   - i. For a township that on the enactment date of this act had a planning commission created under former PA 285 of 1931 or for a city or village; by a vote of not less than ¾ of its entire membership.
   - ii. For any other township; by a vote of not less than a majority of its membership.
   - iii. For a county; unspecified.

If the planning commission fails to act within 35 days after submission of the proposal to the planning commission, the project shall be considered to be approved by the planning commission.

3. **Taxation:**
   - A. Proceeding to write and adopt various tax incentive policies,
   - B. Other: neighborhood improvement program, blighted area rehabilitation program, economic development corporations, plant rehabilitation and industrial development programs, commercial redevelopment act and brownfield redevelopment and so on.

4. **Police Powers:**
   - A. Proceeding to write and adopt a subdivision control ordinance/rules (§ 71),
   - B. Proceeding to write and adopt a zoning ordinance (see Land Use Series, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”), or amend existing zoning ordinances (see Land Use Series, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including PUD) in Michigan”).
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 21. At least every five years after adoption of the plan the planning commission shall review the plan and determine whether to amend the plan, prepare a new plan, or consider the existing plan still valid as is (§ 45(2)). (See <em>Land Use Series</em>: “Checklist #1H; The Five Year Plan Review.”)</td>
<td>Certified copy of Planning Commission minutes showing the motion.</td>
</tr>
</tbody>
</table>

[December 23, 2010; Wexford County MSUE CED: C:\Documents and Settings\Kurt\My Documents\wp\BulletinsMSUE Wexford\pamphlet1G adopt plan.wpd]
Check List # 1H
The Five-Year Plan Review

This is a step-by-step procedure for the five year review of a plan for a local unit of government, and of the plan’s fact book, background studies or reports, resource book, or data book. (In this pamphlet they will be called “fact book”.) This pamphlet is designed to provide a list of steps – in order – which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.), recommendations of Brad Neumann, MSU Extension Land Policy Educator, Kurt H. Schindler, MSU Extension Regional Land Use Educator, and intergovernmental coordination and plan content “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan chapter of the American Planning Association.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and powers to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq.
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq.
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq. (For cities, villages, and some township planning commissions created prior to 1959.)

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

Authors:
Brad Neumann, LAND POLICY EDUCATOR, St. Joseph County.
Phone: (269) 467-5522
Fax: (269) 467-5641
e-mail: neuman36@msu.edu
overland mail:
MSU Extension, St. Joseph County
612 E. Main Street
Centreville, Mich. 49032

Kurt H. Schindler, REGIONAL LAND USE EDUCATOR, Northwest-west Central
Phone: (231) 779-9480
Fax: (231) 779-9105
e-mail: schindl9@msu.edu
overland mail:
MSU Extension, Wexford County
401 N. Lake Street – Suite 400
Cadillac, Mich. 49601-1891

The authors would like to thank the following individuals for their review and assistance with this publication:
- Jason Ball, MSU GRADUATE STUDENT
- Mary Ann Heidemann, REGIONAL LAND USE EDUCATOR; Northeast-east Central
- Lincoln Sweet, MSU GRADUATE STUDENT
- J. Douglas Piggott, ROWE INC., for inspiring further revisions.
This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into four columns. The first column has a place to check when the task is done, and a place to check when the

---

**Related Publications**

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series**: "Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance."
- **Land Use Series**: #1B; Sample Ordinance to create a planning commission
- **Land Use Series**: #1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.
- **Land Use Series**: "Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act"
- **Land Use Series**: #1E; Sample Bylaws for a planning commission.
- **Land Use Series**: "Checklist #1F; What Should be in a Master Plan"
- **Land Use Series**: "Checklist #1G; For Adoption of a Plan in Michigan"
- **Land Use Series**: "Checklist #1H; The Five Year Plan Review."
- **Land Use Series**: "Checklist #1I; For Adoption of an Amendment to a Plan"
- **Land Use Series**: "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- **Land Use Series**: "Checklist #1K; Review of Infrastructure and Public Capital Expenditure"
- **Land Use Series**: "Checklist #1L; Adoption or Amendment of Subdivision Rules"
- **Land Use Series**: #1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan"
- **Land Use Series**: #1N; How a Planning Commission Should Respond to Submissions"
- **Land Use Series**: "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- **Land Use Series**: "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- **Land Use Series**: "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan"
- **Land Use Series**: "Checklist #5: for Processing a Special Use Permit (Including Pud) Application in Michigan."
- **Land Use Series**: "Checklist #6: for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

---

**Glossary**

The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.

Local Unit of Government means a county or municipality.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning jurisdiction means the area encompassed by one of the following:

- For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
- For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
- For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
- For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly review a plan. The third column is what should be included in a permanent file to document that work has been done. The fourth column is used to mark if the material reviewed supports the conclusion that the plan:

- does not need to be changed at this time;
- needs to be updated with amendments; or
- needs to be completely redone.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

Some communities may be more prepared than others to conduct the five-year plan review. Those communities that regularly review their plan(s) and have a thorough understanding of the document(s) may wish to use the following short-form checklist to determine whether an update of their plan(s) is needed. Other communities are encouraged to follow the complete checklist beginning on page 4.

For the following short-form checklist, place a check-mark in the box next to each statement that applies to your community. Consider each statement within the time frame since your plan(s) was last updated or adopted.

- New or more accurate information (i.e. census population, demographics, income, land use/land cover change, land use analysis, newer/better natural resource information such as soil surveys, economic data, service district maps, and so on) has become available since the creation of the current plan.
- The goals, objectives, and strategies have been met since the adoption of the plan and no longer provide guidance for a twenty-year time frame.
- Major developments in the community or in nearby communities have affected the underlying principles, strategies, or land use needs in particular areas.
- There has been a recurring or new issue in the community that is not addressed in the current plan (e.g. the community has expressed an interest in becoming a more walkable community, but the plan lacks language to reinforce this priority).
- The community leadership or agenda changed since the adoption of the current plan and there appears to be a shift in public priorities.
- There is an expressed need for additional space for new or expanding uses in the community (i.e. the future land use map within the plan and the timing of capital facilities as embodied in the plan is no longer adequate to serve existing and 10-20 year future needs)
- There are outstanding or decided lawsuits where the community process, plan, or ordinance was called into question and the community lost.
- The community attorney or professional planner advised an update of the plan.
- The current plan does not include the elements of a zoning plan (and the community has zoning),
- The current plan does not include discussion of land for use for public transportation facilities (as of Dec. 23, 2010).
- The current plan does not include elements of an asset-based strategic economic development plan that is coordinated with a subregion and/or regional economic plan.
- The current plan does not include content on complete streets.

Based on the boxes checked in the above list, the planning commission decides:

- No change has occurred or the plan is fine and therefore the plan may stand as adopted.
- Some amendments are required because of new or updated information and therefore the plan should be amended. To do so see Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan” available at: www.msue.msu.edu/lu/.
- There are substantial changes in the community and therefore the plan should be rewritten. To do so see Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan” available at: www.msue.msu.edu/lu/.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
<th>Conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>□ In the file</td>
<td>□ Task is done</td>
<td>□ In the file</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>□ In the file</td>
<td>□ Task is done</td>
<td>□ In the file</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>□ In the file</td>
<td>□ Task is done</td>
<td>□ In the file</td>
</tr>
</tbody>
</table>

**STEP 1:**
The planning commission decides to start the five year review. (The Michigan Planning Enabling Act requires that the plan be reviewed at least every 5 years. If the planning commission decides the plan does not need to be updated after the 5 year plan review, it is recommended that the planning commission review the plan each year following the initial 5 year review).

**Certified copy of the planning commission’s minutes where the decision to begin the review was made.**

**STEP 2:**
The planning commission reviews the data in the plan and the plan’s fact book for consistency with more current information (i.e. census population, demographics, income, land use/land cover change, land use analysis, newer/better natural resource information such as soil surveys, economic data, service district maps, and so on).

Plans may be based on projected trends data which may or may not accurately reflect the current state of the community. It is imperative to use accurate data, as much of the plan is based on this information (infrastructure capacity, amount of land planned for various uses: residential, commercial, industrial, etc.).

**Certified copy of the planning commission’s minutes or staff’s/consultant’s report in which data was reviewed.**

**STEP 3:**
Based on the findings of STEP 2, the planning commission decides whether new, or more accurate information has become available since the creation of the current plan.

**Certified copy of the planning commission’s minutes where data was discussed.**

**Copy of improved data and its source.**

**Supports the conclusion that the plan:**
□ does not need to be changed at this time.
□ needs to be updated with amendments.
□ needs to be completely redone.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
<th>Conclusion</th>
</tr>
</thead>
</table>
| ☐ Task is done  
☐ In the file | **STEP 3A:** There is an opportunity to increase the detail and sophistication of a plan. Over time, one can build onto an existing plan and add new sections, with the plan and fact book becoming more comprehensive. Use Appendix A of this pamphlet (if desired) to review the current contents of the plan and fact book, noting what is already there, what could be done better, and what is not there that should be added. Based on this review, the planning commission decides whether the work involved will result in the need for an amended plan or new plan. | Completed copy of Appendix A. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
| ☐ Task is done  
☐ In the file | **STEP 4:** To what degree have the goals, objectives, and strategies been met since the adoption of the plan? Do the goals and objectives continue to provide guidance for a twenty-year time frame? As the community makes day-to-day development decisions the landscape will change. During this review it is prudent to determine if the development decisions have been moving the community in the general direction envisioned in the plan. | Certified copy of the planning commission’s minutes where goals and objectives were reviewed. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
| ☐ Task is done  
☐ In the file | **STEP 5:** Have there been any major developments in the community or in nearby communities that affect underlying principles, strategies, or land use needs in particular areas? | Certified copy of the planning commission’s minutes where developments that impact particular areas were discussed. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
<th>Conclusion</th>
</tr>
</thead>
</table>
| ☐ Task is done  
☐ In the file | **STEP 6:** Has there been a recurring or new issue in the community that is not addressed in the current plan? For example, has the community expressed an interest in becoming a more walkable community, but the plan lacks language to reinforce this priority? | Certified copy of the planning commission’s minutes where issue has been discussed and if available, documentation of this recurring or new issue. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
| ☐ Task is done  
☐ In the file | **STEP 7:** Has the community leadership or agenda changed since the adoption of the current plan? If the leadership or the agenda of a community have changed dramatically it may indicate a shift in public priorities. If there are new public priorities in a community, the current plan may no longer be supported and the plan may need to be amended or redone. Remember a plan is in large part an expression of consensus in the community about its future. As leadership and people in various positions change, it may be necessary to re-build that consensus. | Certified copy of the planning commission’s minutes where changes in public policies were discussed. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
| ☐ Task is done  
☐ In the file | **STEP 8:** Is there an expressed need for additional space for new or expanding uses in the community? If so, then it may be time to create a new plan that projects farther into the future. The future land use map within the plan and the timing of capital facilities as embodied in the plan should be adequate to serve existing and 10-20 year future needs. | Certified copy of the planning commission’s minutes where zoning map and capital improvements were discussed. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
<th>Conclusion</th>
</tr>
</thead>
</table>
| ☐ Task is done  
☐ In the file | **STEP 9:** Are there outstanding or decided lawsuits where the community process, plan, or ordinance was called into question and the community lost? | Certified copy of the planning commission’s minutes where cases were discussed and copy of judgments against community. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
| ☐ Task is done  
☐ In the file | **STEP 10:** Has the community attorney or professional planner advised an update of the plan? | Certified copy of the planning commission’s minutes where advice was given or written notification regarding need for update. | Supports the conclusion that the plan:  
☐ does not need to be changed at this time.  
☐ needs to be updated with amendments.  
☐ needs to be completely redone. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
<th>Conclusion</th>
</tr>
</thead>
</table>
| □ Task is done  
□ In the file | **STEP 11:** Based on the conclusions to the preceding steps checked in the fourth column, the planning commission decides:  
• The conclusion to each of the above items is “... to not change the plan at this time” (i.e. no change has occurred or the plan is fine) and therefore the plan may stand as adopted.  
• Some of the conclusions to the above items are to “...amend the plan/fact book” (i.e. some amendments are required because of new or updated information) and therefore the plan should be amended. To do so see Land Use Series: “Checklist #1I; Adoption of an Amendment to a Plan” available at: www.msue.msu.edu/lu/.  
• Many or some of the conclusions to the above major items are to “...prepare a new plan and fact book” (i.e. there are substantial changes in the community) and therefore the plan should be rewritten. To do so see Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan” available at: www.msue.msu.edu/lu/. | Certified copy of the planning commission’s minutes where the decision to update the plan or not update the plan was made. | The planning commission acts to  
□ not change the plan at this time.  
□ amend the plan/fact book.  
□ prepare a new plan and fact book |
| □ Task is done  
□ In the file | **STEP 12:** If not already budgeted, the planning commission approaches the legislative body with the intent to amend the plan or prepare a new plan and fact book. This may include preparing a cost estimate to do so and presenting that cost estimate to the legislative body.  
If the legislative body approves the expenditure, then proceed with the plan amendment or new plan and fact book.  
If the legislative body does not approve the expenditure (or include it in a future budget), or approves a smaller amount than requested, there are three options:  
1. Do the work in house for lower cost.  
2. Expand the task over more than one budget year, so the cost of the task is reflected in more than one budget year.  
3. Go back to STEP 11 and re-evaluate the decision in light of the legislative body’s decision. | Certified copy of the legislative body’s minutes of the meeting where the decision was made, and planning commission’s minutes where follow up discussion took place. | □ Proceed with the decision made in Step 11, as intended.  
□ Do the work in house for a lower cost.  
□ Expand the task over more than one budget year.  
□ Go back to Step 11 and re-evaluate. |
Appendix A: Plan Content and Table of Contents

Minimum Plan Content Required by the Act

According to the Michigan Planning Enabling Act, at a minimum, the following elements are to be a part of a plan.

Using the table below, review your plan and write in each column where the material is found in your community’s plans.

This table was prepared assuming one’s plan is like that of many communities in which it is organized in two major sections— the plan that is the meat of the document including the goals, objectives and policies that guide the physical development of the community (§33); and the background information, data book, resource book, or fact book that provides data and analyses that support the plan (§31). Some communities have a third, optional, section which is an executive summary, or a simply written and heavily illustrated presentation of the plan, a chart, web page, poster, or combination of the above. These two or three sections can be parts all within one document, or might be two or three separate documents. Communities may also include information and policies by reference to other plans or documents.

In the last column of the table, indicate whether the item is something you want to include in your plan when it is updated or replaced.

<table>
<thead>
<tr>
<th>Minimum Statutory Plan Content</th>
<th>Where the element is found in the Fact Book</th>
<th>Where the element is found in the Plan</th>
<th>Where the element is found in other adopted plans</th>
<th>Where the element is found in the optional summary, poster, pamphlet, etc.</th>
<th>This is something we want to add to our next plan(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maps, plats, charts, and descriptive, explanatory, and other related matter. (Sec. 33(1))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>A future land use map is required as a part of the land use plan element of the master plan. (Sec. 33(2)(d))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>Show the planning commission’s recommendations for the physical development of the planning jurisdiction. (Sec. 33(1))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>Recommendations for implementing any of the master plan’s proposals. (Sec. 33. (2)(e)) Note: All jurisdictions should have a section detailing recommendations for implementation. (Sec. 33(2)(e))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission made careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions. (Sec. 31(2)(a))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission consulted with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided. (Sec. 31(2)(b))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>Minimum Statutory Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------------------</td>
<td>-----------------------------------------</td>
<td>--------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Documentation (or copies of) that the planning commission cooperated with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and sought the maximum coordination of the local unit of government's programs with these agencies. (Sec. 31(2)(c))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Shall be included</td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): A proposed schedule of regulations by district that includes at least, building height, lot area, bulk, and setbacks. (Sec. 33(2)(d)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If there is zoning, then these elements shall be included</td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): the standards or criteria to be used to consider rezonings consistent with the master plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If there is zoning, then these elements shall be included</td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): An explanation of how the land use categories on the future land use map relate to the districts on the zoning map. Sec. 33(2)(d) (prerequisite to this requirement is (1) a description of each zoning district, and (2) a proposed zoning map.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If there is zoning, then these elements shall be included</td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): A description of each of the zoning districts (including proposed new ones), the general purpose of each district, a general description of the class of uses to be permitted in each district, and the general locations for those types of districts. Use classes include single family residential, multiple family residential, commercial, office, industrial, agricultural, forestry, mining, etc.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If there is zoning, then these elements shall be included</td>
</tr>
<tr>
<td>Minimum Statutory Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------</td>
<td>--------------------------------------</td>
<td>-----------------------------------------------</td>
<td>-------------------------------------------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td>For a local unit of government that has adopted a zoning ordinance, a zoning plan (M.C.L. 125.3203(1)) (see also M.C.L. 125.3305(a)): A proposed zoning map showing the location of proposed zoning districts. This could be accomplished by referring to the existing zoning map and then including a map with proposed district changes and the circumstances under which those changes should be made in a manner consistent with the master plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If there is zoning, then these elements shall be included</td>
</tr>
<tr>
<td>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”: For a county, documentation that the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole. (Sec. 31(1)(a))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”: For a township that on the effective date of this act had a planning commission created under former 1931 PA 285, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality. (Sec. 31(1)(b))</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”: A classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public transportation facilities (as of Dec. 23, 2010), public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. (If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702), a land use plan and program for the county may be a general plan with a generalized future land use map. (Sec. 33. (2)(a)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Statutory Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>---------------------------------------------</td>
<td>----------------------------------------</td>
<td>-----------------------------------------------</td>
<td>---------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------</td>
</tr>
</tbody>
</table>

Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction": The general location, character, and extent of all components of a transportation system and their interconnectivity including streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, waterfront developments (complete streets); sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures. (Sec. 33. (2)(b)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.

Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction": Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities. (Sec. 33. (2)(c) (Recommendations for redevelopment may or may not be included as pertinent, and a zoning plan.)

Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction": If a master plan is or includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality. (Sec. 33. (3)) Note: Given this requirement, most, if not all, jurisdictions should include the majority of these elements in the master plan.

This is the first of three ways to evaluate the content of your plan. The table above should be considered the legal minimum. Most plans should contain much more.

A More Comprehensive Plan Content Analysis

The following checklist is adapted from materials developed by the Michigan chapter of the American Planning...
Association, from their work toward a Coordinated Planning Act (never adopted). It provides a rather complete list of the analysis that should be a part of a plan and fact or data book.

Following this table is a sample table of contents for a plan, data or fact book, and summary. It gives just one example of how information in a plan might be organized.

Using the table below, review your plan and write in each column where the material is found in your community’s plans.

This table is prepared assuming one’s plan is like that of many communities in which it is organized in two major sections – the plan that is the meat of the document including the goals, objectives and policies that guide the physical development of the community (§33); and the background information, data book, resource book, or fact book that provides data and analyses that support the plan (§31). Some communities have a third, optional, section which is an executive summary, or a simply written and heavily illustrated presentation of the plan, a chart, web page, poster, or combination of the above. These two or three sections can be parts all within one document, or might be two or three separate documents. Communities may also include information and polices by reference to other plans or documents.

In the last column of the table, indicate whether the item is something you want to include in your plan when it is updated or replaced.

<table>
<thead>
<tr>
<th>Plan Content</th>
<th>Where the element is found in the Fact Book</th>
<th>Where the element is found in the Plan</th>
<th>Where the element is found in other adopted plans</th>
<th>Where the element is found in the optional summary, poster, pamphlet, etc.</th>
<th>This is something we want to add to our next plan(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Plan (Only for a county with no zoning)</td>
<td>A policy-based plan with generalized future land use maps.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A section on affordable housing needs and a strategy to meet those needs.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A section on job development and a strategy to meet those needs.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Address the relationship between jobs, housing, and transportation within the local unit of government or region.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A separate section on multimodal transportation including streets and highways, public transit, airports, railroads, ports, and pedestrian and bicycle ways.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A section on capital facilities owned or operated, or both, or privately contracted by the local unit of government, together with long-range fiscal plans for the provision of new capital facilities for the local unit of government.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The plan shall be the basis for the local unit of government or regional capital improvement program including capital improvements to be done by a county road commission, drain commissioner, parks and recreation commission, department of public works, or other local unit of government legislative body.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>An analysis of all the municipal or joint municipal plans of municipalities within the county to ensure coordination and consistency, including, but not limited to, buildout, economic, fiscal, environmental, and social impact analyses.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A plan may incorporate by reference plans, or portions of plans, adopted by other agencies of political subdivisions, a regional plan, this state, or the federal government.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
<td>----------------------------------------</td>
<td>-------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Other elements as determined by the planning commission.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Future Land Use Plan</strong> <em>(The minimum for a local unit of government with zoning)</em></td>
<td>All of the parts for a general plan, above.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The arrangement of future land uses, as well as the intensity and density of such uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An explanation of the degree to which future land uses are, or are not, compatible with the future land use plans and zoning regulations of adjoining jurisdictions (or municipalities within the county) or the management plans of state or federal agencies with public lands within the local unit of government</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future land use shall be described in the text and depicted on a future land use map showing the general location and arrangement of future land uses, but not parcel lines.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A future transportation network, including, but not limited to, roads and streets, bridges, railroads, airports, bicycle paths, and pedestrian ways.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision for a network of electronic communication facilities.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future capital facilities.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A zoning plan for the control of the height, area, bulk, density, location, and use of buildings and premises, for current and future zoning districts.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An explanation of the zoning plan’s relationship to the future land use plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A description of how the community intends to move from present conditions illustrated on the current zoning map and described in the zoning plan to the proposed future relationship of land uses illustrated on the future land use map.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A discussion of measures considered and included in the development of the future land use plan to avoid possible takings of private property without just compensation if land use regulations were to be subsequently adopted or amended consistent with the plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Each of the elements of a future land use plan, above, should incorporate goals, objectives, policies, and strategies to be employed in fulfilling the plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Each element of a future land use plan should utilize maps and, if helpful, plats, charts, and tables. Maps, plats, charts, and tables should be accompanied by descriptive explanatory text.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
<td>---------------------------------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td><strong>Comprehensive Plan</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All of the parts for a general plan and land use plan, above.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations for the social, environmental, economic, or physical development or redevelopment of the jurisdictional area. The plan should identify the amount and source of the fiscal and other resources to be used to implement the recommendations in the plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An analysis of existing community social and economic disparities in employment, income, housing, transportation, education, and crime and recommendations for public and private measures to rectify disparities.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A section on multimodal transportation facilities, together with long-range fiscal plans for the provision or replacement of transportation facilities. (This may be part of the future transportation network [master street plan] element of a Future Land Use Plan.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information on capital facilities necessary for the comprehensive plan to serve as the basis for the development and annual updating of a capital improvement program including a map of the location of new capital facilities on which construction is proposed to begin within a period at least as long as that covered by a capital improvement program.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for housing, including, but not limited to, the condition of existing housing and specific needs for affordable and assisted housing, and analysis of options for meeting those needs.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Economic development, including both job retention and promotion strategies.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Natural resources management, including, but not limited to, agricultural and forest lands, mineral lands, wetlands, floodplains, headwaters areas, sand dunes, areas at high risk of erosion, other sensitive areas, endangered or threatened species habitat, and land use related to preserving biodiversity.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maps and text with an analysis of existing conditions and strategies to address identified problems and/or opportunities for Natural resources management, including, but not limited to, agricultural and forest lands, mineral lands, wetlands, floodplains, headwaters areas, sand dunes, areas at high risk of erosion, other sensitive areas, endangered or threatened species habitat, and land use related to preserving biodiversity.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------------------------</td>
<td>--------------------------------------</td>
<td>-----------------------------------------------</td>
<td>---------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
</tbody>
</table>
| **Growth Management Plan**  
All of the parts for a general plan, land use plan, and comprehensive plan, above. | | | | | |
| The boundaries for expansion of capital facilities and/or public services of the local units of government during the period of the plan. | | | | | |
| Maximum density of land use based on available public services and facilities and specified level of service standards for those services and facilities. | | | | | |
| The plan should be consistent with P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.) for a purchase of development rights program, and/or to the extent permissible by law, transfer of development rights program. | | | | | |
| Maps showing the location of proposed future road right-of-way and of other public facilities beyond 5 years in the future. | | | | | |
| A strategy and locations to target provision of affordable housing. | | | | | |
| A strategy that links future jobs, housing, and transportation in mutually supportive ways. | | | | | |
| A strategy for land assembly and redevelopment. | | | | | |
| Other elements as necessary to implement the growth management or redevelopment goals of the plan. | | | | | |
| **Include as part of the Plan, or as separate plans some or all of:**  
Soil and water conservation. | | | | | |
<p>| Open space protection. | | | | | |
| Intergovernmental coordination. | | | | | |
| Human services, including, but not limited to, childcare services, senior citizen programming, and mental health services. | | | | | |
| Historic preservation. | | | | | |
| Coastal zone management. | | | | | |
| Solid waste management. | | | | | |
| Energy conservation. | | | | | |
| Watershed planning and management. | | | | | |
| Community corrections. | | | | | |
| Annexation. | | | | | |</p>
<table>
<thead>
<tr>
<th>Plan Content</th>
<th>Where the element is found in the Fact Book</th>
<th>Where the element is found in the Plan</th>
<th>Where the element is found in other adopted plans</th>
<th>Where the element is found in the optional summary, poster, pamphlet, etc.</th>
<th>This is something we want to add to our next plan(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redevelopment.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special purpose, sub-area (M.C.L. 125.3835), functional, neighborhood, corridor, or strategic plans.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Incorporate, by reference to relevant portions of other plans, including any of the following adopted plans that apply to the territory covered by the planning commission:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan adopted by a tax increment finance authority under P.A. 450 of 1980, as amended, (the Tax Increment Finance Authority Act, M.C.L. 125.1801 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan adopted by a downtown development authority under P.A. 197 of 1975, as amended, (M.C.L. 125.1651 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan adopted by a local development finance authority under P.A. 281 of 1986, as amended, (the Local Development Financing Authority Act, M.C.L. 125.2151 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan adopted by an international tradeport development authority under P.A. 325 of 1994, as amended, (the International Tradeport Development Authority Act, M.C.L. 125.2521 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A brownfield plan adopted by a brownfield redevelopment authority under P.A. 381 of 1996, as amended, (the Brownfield Redevelopment Financing Act, M.C.L. 125.2651 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A plan adopted by a local unit of government, county, or regional economic development commission under P.A. 46 of 1966, as amended, (M.C.L. 125.1231 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A project plan adopted by an economic development corporation under P.A. 338 of 1974, as amended, (the Economic Development Corporations Act, MCL 125.1601 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A plan adopted by a housing commission under P. A. 18 of 1933 (Extra Session), as amended, (M.C.L. 125.691 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A development plan approved by a planning commission and supervising agency under P.A. 250 of 1941, as amended, (the Urban Redevelopment Corporations Law, M.C.L. 125.901 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A local unit of government, county, or regional park or recreation plan adopted by a local unit of government, county, or regional commission under P.A. 261 of 1965, as amended, (M.C.L. 46.351 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Content</td>
<td>Where the element is found in the Fact Book</td>
<td>Where the element is found in the Plan</td>
<td>Where the element is found in other adopted plans</td>
<td>Where the element is found in the optional summary, poster, pamphlet, etc.</td>
<td>This is something we want to add to our next plan(s)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
<td>----------------------------------------</td>
<td>---------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>An airport approach plan adopted by the aeronautics commission under P.A. 23 of 1950 (Extra Session), as amended, (the Airport Zoning Act, M.C.L. 259.431 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A school district plan adopted by a public school district or charter school.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A sewer or water plan adopted by a local unit or joint sewer and water authority.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A solid waste management plan adopted pursuant to Part 115 of P.A. 451 of 1994, as amended (the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 et seq.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A blighted area rehabilitation plan adopted pursuant to P.A. 344 of 1945, as amended, (M.C.L. 125.71 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A neighborhood area improvement plan adopted pursuant to P.A. 208 of 1949, as amended, (M.C.L. 125.941 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A plan for redevelopment of principal shopping areas under P.A. 120 of 1961, as amended, (M.C.L. 125.591 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise or empowerment zone plans pursuant to P.A. 224 of 1985, as amended, (M.C.L. 125.2101 et seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any capital facility or other metropolitan plan prepared by a metropolitan council under P.A. 292 of 1989, as amended, (M.C.L. 124.651 et. seq.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Based on which rows, in the above table you were able to mark a page number(s) down for and which ones are left blank, you can construct a list of what has been done, and what has not been done. A general strategy, each time a community updates their plan, is to try to increase the number of items in the above table which are done. Over time the plan will become more substantial. One should also consider that there is a point where a community (which is small, rural, or not complex) does not need a more substantial plan. Thus, in a county without zoning, the items listed as part of a general plan might be enough. If it is a community with zoning, then only the elements for the general plan and land use plan may be enough. This is a judgement call which should be re-assessed each time the community updates or replaces its plan.

Sample Table of Contents

Seldom are plans organized in a format as presented in the above table. The following is a more typical table of contents for a community plan. However, there is not a “right” or “wrong” way, or order, to arrange a plan. A community has a great deal of flexibility in this area. The following is a sample table of contents:

1. Background/Fact Book Possible List of Contents
   a. Introduction, Part A
      i. Acknowledgments, Chapter A1
      ii. Summary, Chapter A2
      iii. About the Fact Book (explanation on its use, purpose), Chapter A3
      iv. Former Plans, Chapter A4
b. The Big Picture, Part B
   i. International, Chapter B1
   ii. National, Chapter B2
   iii. State and region, Chapter B3. (Michigan Trend Future, Michigan Land Use Leadership Council Smart Growth recommendations)

c. Background, Part C
   i. Geography and climate, Chapter C1
   ii. History, Chapter C2
   iii. Former Land Uses, Chapter C3
   iv. Natural Resources, Chapter C4
   v. Environment, Chapter C5
   vi. Scenic Resources (Community Character), Chapter C6
   vii. Recreation (parks), Chapter C7
   viii. Population (Demographics), Chapter C8
   ix. Human Services, Chapter C9
   x. Economics (Jobs), Chapter C10
   xi. Housing, Chapter C11
   xii. Infrastructure (drains, sewer, water, roads, Airport, port, etc.), Chapter C12
   xiii. Land Ownership, Chapter C13
   xiv. Existing Zoning analysis (continuation of current trends, buildout, critique, etc.), Chapter C14

d. Appendices, Part D
   i. Public input (opinion survey methodology detail, results) (or results are incorporated throughout the document)
   ii. Other detail

2. Plan volume Possible List of Contents
   a. Introduction, Part E
      i. Summary, Chapter E1
      ii. About the Plan (context, legal authority, purpose), Chapter E2
      iii. International, national, state, relationships, Chapter E3
   b. Conclusions/Land Use Plan Map, Land Use Plan Map, Part F
      i. Land Use Plan, Chapter F1
      ii. Industrial activities, Chapter F2
      iii. Commercial activities, Chapter F3
      iv. Residential development, Chapter F4
      v. Rural residential activities, Chapter F5
      vi. Resource protection (farmland, forestland preservation), Chapter F6
      vii. Sensitive, or environmentally limiting lands, Chapter F7
      viii. Special areas/Community Character (scenic, historic, cultural, environmental), Chapter F8
      ix. Zoning Plan, Chapter F9
   c. Conclusions/Other Plan Topics, Part G
      i. Housing, Chapter G1
      ii. Human Services, Chapter G2
      iii. Education, Chapter G3
      iv. Infrastructure, Chapter G4
      v. Economic Development, Chapter G5
      vi. Air, water, groundwater, solid waste, soil erosion, energy, etc., Chapter G6
      vii. Environmental Protection beds of rivers and lakes and their margins, Natural Resources Management, Chapter G7
      viii. Indigenous peoples, Chapter G8
      ix. Other (special issues for a particular local unit of government), other chapters dealing with identified issues at the fourth meeting of the citizen plan committee, Chapter G9
   d. Appendices, Part H
      i. Public participation
      ii. Adoption documentation
      iii. Listing of comments on the plan and response to comments on the plan
      iv. Other appendices

3. Summary
   a. Executive summary, or
   b. A simply written and heavily illustrated presentation of the plan, or
   c. A chart, or poster presentation of the plan, or
   d. A web page, or
   e. A combination of these.

---

¹Recreation plan is often a separate plan/document.
Check List # 1I
For Adoption of an Amendment to a Plan

This is a step-by-step procedure for planning, specifically adoption of an amendment to a plan (also known as an extension, addition, and revision of a plan). It is designed to provide a list of steps -- in order -- which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L.125.3801 et. seq.), recommendations of Kurt H. Schindler, MSU Extension Regional Land Use Educator, and intergovernmental coordination and plan content “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan Chapter of the American Planning Association. In the check list, most of the items marked “optional” are derived from the proposed Coordinated Planning Act, not the current statute.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq. See MSU Extension Land Use Team’s Land Use Series, “Checklist #C1; for Adoption of a County Plan in Michigan.”

- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq. See MSU Extension Land Use Team’s Land Use Series, “Checklist #T1; for Adoption of a Township Plan in Michigan.”
• Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq. (For cities, villages, and some township planning commissions created prior to 1959.) See MSU Extension Land Use Team’s Land Use Series, “Checklist #M1; for Adoption of a City and Village Plan in Michigan.”

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

---

**Related Publications**

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- *Land Use Series*: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance”
- *Land Use Series*: “#1B; Sample Ordinance to create a planning commission”
- *Land Use Series*: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- *Land Use Series*: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- *Land Use Series*: “#1E; Sample Bylaws for a planning commission.”
- *Land Use Series*: “Checklist #1F; What Should be in a Master Plan”
- *Land Use Series*: “Checklist #1G; For Adoption of a Plan in Michigan”
- *Land Use Series*: “Checklist #1H; The Five Year Plan Review.”
- *Land Use Series*: “Checklist #1I; For Adoption of an Amendment to a Plan”
- *Land Use Series*: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- *Land Use Series*: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- *Land Use Series*: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
- *Land Use Series*: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- *Land Use Series*: “#1N; How a Planning Commission Should Respond to Submissions”
- *Land Use Series*: “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
- *Land Use Series*: “Checklist #3; for Adoption of an Interm Zoning Ordinance in Michigan.”
- *Land Use Series*: “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
- *Land Use Series*: “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
- *Land Use Series*: “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

---

**Glossary**

The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.

Local Unit of Government means a county or municipality.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning jurisdiction means the area encompassed by one of the following:

- For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
- For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
- For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
- For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly adopt an amendment to a plan. The third column is what should be included in a permanent file to document that the work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This checklist is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 1: The decision is made to:</td>
<td>Copy of the minutes where the decision to start the planning amendment process was made.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>A. Prepare an amendment to an existing plan (see Land Use Series: “Checklist #1H; The Five Year Plan Review”); or B. Start work on a new successive part of the plan in the form of an amendment/addition/extension of an existing plan (§ 39(1)); or C. Extend an existing plan to be effective to a later date; or D. Start work on an amendment to a subplan (a plan, or part of a plan for a specific geographic area (§ 35 and § 33(4)). In each of the above cases, go to step 2, and proceed with the amendment process. Another possible decision/option is to amend an existing plan which only involves the following things (§ 45(1)(a)): 1. Grammatical, typographical, or similar editorial changes; or 2. A title change; or 3. Changes to conform to an adopted plat. In these cases, these changes can be made without following the amendment procedure. The changes can be made, and then proceed to step 19.</td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>STEP 2.</strong> The planning commission should start work on the plan amendment by first establishing a system of coordination and communication with other governments (§ 39(2)). In order to do so a notice shall be sent which (1) shall explain the planning commission intends to prepare a plan amendment (specify what type/part), (2) shall request cooperation and comment on the plan amendment, (3) may state the intent to submit electronically (such as email or on a web site) any information required to be submitted, and (4) if it is a subplan amendment, shall indicate if the intent is to provide further notices or not.</td>
<td></td>
</tr>
</tbody>
</table>

   (Electronic means may be used for notices, submission of comments and draft plan amendments unless the receiver of this notice objects. If an objection is received, then such information shall be submitted in writing by first-class mail or personal delivery (§ 39(3)).)

   (Further notices concerning subplan amendments do not need to be sent, unless the receiver of this notice objects. If an objection is received, then future notices about the subplan amendment shall be submitted (§ 45(1)(c)).)

   This first notice shall be sent by first class mail to each of the following:

   1. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 39(2)(a)).

   2. If it is a county plan, the regional planning commission for the region in which the county is located (§ 39(2)(b)).

   3. If it is a county plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 39(2)(c)).

   4. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is no county planning commission, then the notice is sent to both the County Board of Commissioners and the regional planning commission for the region in which the municipality is located (§ 39(2)(d) and § 39(2)(e)).

   5. For any plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 39(2)(f)). (Anyone listed in number 5 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)

   6. If the plan amendment is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 39(Q)(g)).

   7. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government.

   8. (Optional) For any plan, each state, federal, Native American tribes government agencies which own more than 10 acres of land within the planning commission’s jurisdiction; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups.

   This notice might be delayed until after the preliminary studies (step 4) are done if the community wants to consider the “start” of planning taking place after that step, but in any case this notice should be sent out before the start of the plan amendment preparation (step 5).

   Other means of cooperation can also include joint meetings, or a committee to prepare the plan amendment whose membership includes representatives of all those receiving notices.

   Best planning practice is that a plan amendment should coordinate the plans of those entities listed in this step to receive notice; a plan should not contravene with the plans of those entities. Thus obtaining and reviewing those plans should also be done. If there are inconsistencies making compliance with each plan difficult, one of the purposes of a county planning commission is to provide guidance as to which plan(s) to follow. | Copy of the notices, list of who notices were sent to and an affidavit indicating when they were sent.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| □ Task is done | STEP 3. Work on drafting a plan amendment should start. Planning should be in cooperation with other jurisdictions deemed to be related to the planning of the local unit of government drafting an amendment to their plan (§ 31(2)(b))

In cities, villages, and townships formed under the Municipal Planning Act (M.C.L. 125.31 *et seq.*); a plan amendment can include planning for any areas outside of the planning commission’s local unit of government boundaries (planning jurisdiction) which, in the planning commission’s judgement, bears relation to the planning of the planning commission’s local unit of government. (§ 31(1))

The planning commission of all jurisdictions may meet with other governmental planning commissions to deliberate (§ 31(2)(b)).

If the plan amendment is for a local unit of government with an adopted zoning ordinance then the plan amendment may include a change to a “zoning plan” for the various zoning districts (§33(2)(d)). A zoning plan can be a chapter, intermingled throughout the plan, or a separate document. The zoning plan shall include an explanation of how land use categories on the future land use map relate to the districts in the zoning map. | Notes or minutes of joint meetings, or copies of letters. |
| □ Task is done | STEP 4. In preparation of a plan amendment, studies of existing conditions and probable growth should be done, or reviewed, for the basis of the plan and plan amendment (§ 31(2)).

The planning commission may make use of expert advice and information from federal, state, county, and municipal officials, departments, and agencies having information, maps, and data pertinent to the planning jurisdiction (§ 25(2)). | Copies of studies, documents, and reports leading up to the preparation of the plan amendment. Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner. |
STEP 5. A plan and its amendments, taken as a whole, shall address land use and infrastructure issues and may project 20 years or more into the future. A plan, as amended, shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the planning jurisdiction (§ 33(1)).

A plan, as amended, shall also include those of the following subjects that reasonably can be considered pertinent to the future development of the planning jurisdiction (§ 33(2)):

- A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public transportation facilities (as of Dec. 23, 2010), public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan Zoning Enabling Act, 2006 PA 110, M.C.L. 125.3101 et seq., a land use plan and program for the county may be a general plan with a generalized future land use map (§ 33(2)(a)).

- The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures (§ 33(2)(b)).

- Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities (§ 33(2)(c)).

- For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map (§ 33(2)(d)).

- Recommendations for implementing any of the master plan's proposals (§ 33(2)(e)).

- If a master plan is, or includes, a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality (§ 33(3)).

STEP 6. The planning commission acts to submit the proposed plan amendment to the legislative body for review and comment (§ 41).

Documents to file
- Copy of the plan amendment.
- Certified copy of the minutes approving the proposed plan amendment submitted to the legislative body.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **STEP 7. The legislative body acts on the proposed plan amendment:**  
A. Approving distribution of the proposed plan amendment. If approved, the governing body notifies the secretary of the planning commission (§ 41(2)). Then go to Step 8.  
B. Does not approve distribution. The process of adopting the plan amendment stops (§ 41(1)). Go back to Step 5.  
At this point, if not already done, the legislative body may consider adopting, or not adopting, a resolution which asserts the right of the legislative body to approve or reject the plan and/or plan amendment in steps 16 and 17 (§ 43(3)). (The resolution which asserts the right of adoption can take place at any time. For a given plan, this is the step where the plan is before the legislative body, and such a resolution could be considered.) | Certified copy of the legislative body minutes approving distribution of the proposed plan amendment.  
If adopted, a certified copy of the legislative body’s minutes adopting the resolution which asserts the right of the legislative body to adopt the plan and/or amendments. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| □ Task is done | **STEP 8.** The secretary of the planning commission shall submit (§ 39(3)) a proposed copy of the plan amendment for review and comment to (Unless it is a subplan amendment that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c), see step 2.):  
  1. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 41(2)(a)).  
  2. If it is a county plan, the regional planning commission for the region in which the county is located (§ 41(2)(b)).  
  3. If it is a county plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 41(2)(c)).  
  4. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is no county planning commission, then the notice is sent to both the County Board of Commissioners and the regional planning commission for the region in which the municipality is located (§ 41(2)(d) and § 41(2)(e)).  
  5. For any plan, each public utility company and railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 41(2)(f)). (Anyone listed in number 5 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)  
  6. If the plan amendment is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 41(2)(g)).  
  7. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government.  
  8. (Optional) For any plan, each state, federal, Native American tribe government agencies which own more than 10 acres of land within the planning commission’s local unit of government; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups. (Notice of the hearing (step 12) may be included with this submission (§ 43(1)).  
  At the same time as the above number 4, the secretary of a municipal planning commission shall also submit (§ 39(3)) a signed statement:  
  1. To the county planning commission, that number 1, above, has been done;  
  2. If there is no county planning commission, that numbers 1 and 4 have been done.  
  The statement shall include the name and address of each planning commission or legislative body to which a copy of the proposed plan was submitted and the date of submittal (§ 41(2)(c)). | Copy of the submission of the proposed plan amendment, list of who submission was sent to and an affidavit indicating when they were sent. | Copy of the statement submitted to the County Planning Commission/County Board verifying and listing submissions. |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>STEP 9. Those local units of government, regional planning commissions, public utility companies, and railroads receiving the plan in step 8 have up to 42 days to submit comments on the proposed plan amendment. Those planning review comments, or submissions, shall be sent to the planning commission which prepared the plan amendment being reviewed (§ 41(3) and § 45(1)(b)).</td>
<td>Copy of each comment submitted.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>STEP 10. The county planning commission (or county board of commissioners if there is no county planning commission) shall submit comments to the planning commission within 42 days of step 8. The comments shall include, but are not limited to, the following, as applicable (§ 41(3) and § 45(1)(b)): 1. A statement indicating if the county planning commission considers the proposed plan amendment inconsistent with the plan of any city, village, township, or region that received a copy of the plan amendment in step 10 (§ 41(3)(a)). 2. If the county has a county plan, a statement whether the county planning commission considers the proposed plan amendment to be inconsistent with the county plan (§ 41(3)(b)). The county’s comments are advisory only (§ 41(4)).</td>
<td>Copy of each comment submitted.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>STEP 11. (Optional) The planning commission prepares a response to the comments received at the end of the 42 days which: 1. Changes the proposed plan amendment as a result of the comment submitted, 2. Prepares a preponderance of reasons why the proposed plan amendment should not be changed as a result of the comment submitted.</td>
<td>Copy of the changes to the proposed plan amendment or reasons why it is not changed, possibly placed in an appendix of the plan, as amended.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>STEP 12. The planning commission, by resolution adopted by majority vote, acts to hold a public comment period and then a hearing on the plan amendment. The hearing on the plan amendment must occur 42 days after step 8 is done and after steps 9 and 10 are completed (§ 43(1) and § 45(1)(b)). Notice for the hearing shall require:</td>
<td>Certified copy of the resolution.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>1. Publishing a notice of the hearing in a newspaper of general circulation in the local unit of government. The notice is printed not less than 15 days before the hearing by 1 publication in the newspaper and in the official gazette, if any, of the municipality (§ 43(1)).</td>
<td>Copy of the notices, list of who notices were sent to and an affidavit indicating when they were sent.</td>
</tr>
<tr>
<td></td>
<td>2. Sending a copy of the notice to each of those entities listed in Step 8 (§ 43(1)) (each city, village, or township located within or contiguous to the city or village; county the city or village is within; regional planning commission; each contiguous county; each public utility company and railroad company). Unless it is a subplan that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c)), see step 2.</td>
<td>Newspaper affidavits of publication.</td>
</tr>
<tr>
<td></td>
<td>3. (Optional) Send a copy of the notice to each state, federal, Native American tribe governments and agencies which own more than 10 acres of land within the planning commission’s local unit of government;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. (Optional) Additional publicity to whomever and in whatever forms desired.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Notices should include the place (such as a local library, and an Internet site) and times people can borrow, read, or copy the proposed plan amendment; where to mail comments; where and when the hearing will be held.</td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>STEP 13. The planning commission holds a formal hearing on the plan amendment (§ 43(1)) more than 42 days after step 8.</td>
<td>Copy of minutes of the hearing.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>STEP 14. (Optional) The planning commission prepares a response to the comments received at the public hearing which:</td>
<td>Copy of the changes to the proposed plan amendment or reasons why it is not changed, possibly placed in an appendix of the plan, as amended.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>1. Changes the proposed plan amendment as a result of the comments made at the hearing,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Prepares a preponderance of reasons why the proposed plan amendment should not be changed as a result of the comments made at the hearing.</td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| □ Task is done | **STEP 15.** The planning commission, by resolution, votes to adopt the plan amendment. For the plan amendment to be adopted (§ 43(2)):  
1. A city or village planning commission resolution of plan amendment adoption must have ¾ vote in favor.  
2. A township or county planning commission resolution of plan amendment adoption must have a majority of the entire membership vote in favor.  
   The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the whole or part of the plan amendment.  
The action taken shall be recorded on the amended plan map, if any, and on the amended plan and descriptive matter and signed by the chairperson or the secretary of the planning commission.  
A copy of the resolution of adoption of the amendment shall be reproduced on the amended plan’s inside front cover or inside of the plan’s back cover and on any amended plan maps. (§ 43(2)).  
   On the date of adopting the above resolution, if the legislative body did not adopt a resolution to assert its right to approve or reject the plan and/or plan amendments (step 7), then skip to step 18. If the legislative body did adopt such a resolution, go to step 16. | Certified copy of minutes where vote is made to adopt the resolution.  
A copy of the resolution of adoption should be reproduced on the plan’s inside front cover and on any plan maps.  
Copy of the plan amendment.  
Copy of the plan, as amended. |
<p>| □ Task is done | <strong>STEP 16.</strong> The planning commission secretary shall submit the plan amendment to the legislative body (§ 43(2)).                                                                                                                                                       | Certified copy of Planning Commission minutes referring the plan amendment to the legislative body.                                                                 |</p>
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
|            | STEP 17. If the legislative body adopted a resolution to assert its right to approve or reject the plan and/or plan amendments (step 7) before step 15 was done, the legislative body acts on the plan amendment (§ 43(3)):  
  1. Rejecting the plan and submitting to the planning commission a statement of objections. The planning commission shall consider the objections and revise the plan to address the objections, then go to step 12.  
  2. Approves the Plan. (Go to step 18.) If adopted, a copy of the resolution of adoption shall be reproduced on the amended plan’s inside front cover or inside of the plan’s back cover and on any amended plan maps. (§ 43(2)). | Certified copy of legislative body minutes of when adoption took place.                                                                                              |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>STEP 18. After adoption of the plan amendment the secretary of the planning commission sends (§ 39(3)) a copy of the adopted plan, as amended, or a copy of the plan amendment to the following (§ 43(5)). (Unless it is a subplan that did not receive objections to a statement of intent not to send out further notices (§ 45(1)(c), see step 2.):</td>
<td></td>
</tr>
<tr>
<td>□ In the file</td>
<td>1. The legislative body and/or the clerk of the local unit of government, and in the case of a county a certified copy of the plan amendment, or a copy of the plan, as amended, to the County Board.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. For any plan, the planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the planning commission’s local unit of government (§ 41(2)(a)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. If it is a county plan, the regional planning commission for the region in which the county is located (§ 41(2)(b)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. If it is a county plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government (§ 41(2)(c)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. If a municipal plan, the county planning commission for the county in which the planning commission’s municipal government is located. If there is no county planning commission, then the notice is sent to both the County Board of Commissioners and the regional planning commission for the region in which the municipality is located (§ 41(2)(d) and § 41(2)(e)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. For any plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the planning commission’s local unit of government and any government entity, that registers its name and mailing address for this purpose with the planning commission’s local unit of government (§ 41(2)(f)). (Anyone listed in number 6 getting a copy of the plan shall reimburse the planning commission’s local unit of government for any copying and postage costs for obtaining a copy of the plan.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. If the plan amendment is to include a master street plan/element, to the Michigan Department of Transportation and the county road commission for the county in which the planning commission’s local unit of government is located (§ 41(2)(g)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8. (Optional) For a municipal plan, the planning commission, or if there is no planning commission, the county board of commissioners, of each county contiguous to the planning commission’s local unit of government.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>9. (Optional) For any plan, each state, federal, Native American tribe government agencies which own more than 10 acres of land within the planning commission’s local unit of government; school districts; downtown development authorities; tax increment finance authorities; airport authorities; and other special interest groups.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10. (Optional) Library of Michigan, Michigan State University Library, libraries which are in or near the local unit of government.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>11. Others.</td>
<td>Copy of the adopted plan amendment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Copy of the plan, as amended.</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>STEP 19. (Optional) If a county plan covers incorporated areas (city or village) within the county, the county plan amendment may be adopted by the city or village by following the same steps as found in this checklist (§ 47(1)). If that is done, then the county plan, as amended, can continue to serve as the city or village plan, as amended. A county plan, as amended, is automatically part of a city or village plan if the city or village is subject to county zoning through an urban cooperation act agreement for having county zoning in the city or village (§ 47(2)).</td>
<td>Copy of the respective municipal legislative body’s minutes.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[December 23, 2010; Wexford County MSUE CED: C:\Documents and Settings\Kurt\My Documents\wp\BulletinsMSUE Wexford\pamphlet11 amend plan.wpd]
Check List # 1J
Adopting and Updating a Capital Improvement Program

This is a step-by-step procedure for adopting and updating a capital improvement program. A capital improvement program (CIP) is a prioritization of various infrastructure and other public improvement projects that may need to be constructed in order to successfully implement a community’s adopted plan. The CIP should take into consideration the requirements of all of the departments and agencies in the local government and shall include, in general order of priority, the public improvement projects that will be undertaken in the ensuing six year period. All local units of governments, (except those townships that do not own or operate a water supply or sewage disposal system) are required to prepare and update a capital improvement program each year.

This document is designed to provide a list of steps – in order – which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.), recommendations of Jasneet Sharma, MSU Extension Land Policy Educator, budget finance recommendations derived from the Citizen Planner Leadership Academy Weekend “Budget Finance” training materials developed by Kurt Schindler, MSU Extension Regional Land Use Educator and Dean Solomon, Charlevoix County Extension Director and the Community Planning Handbook developed by the Michigan Association of Planning (MAP).

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.
Only for matters that took place before September 1, 2008 should these old statutes still be referenced:
• County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq.
• Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq.
• Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq.
For any step of this process, the Michigan State University Extension members of the Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

Related Publications
There are also separate procedural checklists for performing other planning and zoning functions. They are:
• Land Use Series: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
• Land Use Series: “#1B; Sample Ordinance to create a planning commission”
• Land Use Series: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
• Land Use Series: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
• Land Use Series: “ #1E; Sample Bylaws for a planning commission.”
• Land Use Series: “Checklist #1F; What Should be in a Master Plan”
• Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan”
• Land Use Series: “Checklist #1H; The Five Year Plan Review.
• Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan”
• Land Use Series: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
• Land Use Series: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
• Land Use Series: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
• Land Use Series: “ #1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
• Land Use Series: “ #1N; How a Planning Commission Should Respond to Submissions”
• Land Use Series, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
• Land Use Series, “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
• Land Use Series, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
• Land Use Series, “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
• Land Use Series, “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”
All of these are available at www.msue.msu.edu/lu.

Glossary
The following terms are used in this publication, and have the following specific meanings.
§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).
Chief administrative official means the manager or other highest nonelected administrative official of a city or village.
Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.
Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.
Local Unit of Government means a county or municipality.
Municipality means a city, village or township.
Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
Planning jurisdiction means the area encompassed by one of the following:
• For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
• For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
• For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
• For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly adopt a CIP. The third column is what should be included in a permanent file to document that work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **Step 1.** First adopt a master plan (see *Land Use Series*: “Checklist #1G; For Adoption of a Plan in Michigan”), or amendment of a master plan (see “Land Use Series: Checklist #1I; For Adoption of an Amendment to a Plan”). | Copy of the charter, or resolution exempting the planning commission from preparing a CIP.  
AND/OR  
Copy of the resolution delegating body/official responsible for preparing the CIP.  
AND/OR  
Copy of the minutes where the decision to start the capital improvement program process was made. |

<table>
<thead>
<tr>
<th>Step 1a. Planning commission adopts the CIP.</th>
<th>Step 1b. Legislative body adopts the CIP. (Because the local unit of government charter or otherwise explicitly exempt the planning commission from CIP preparation duties).</th>
</tr>
</thead>
<tbody>
<tr>
<td>The local unit of government annually prepares a CIP (§ 65(1)).</td>
<td>The legislative body shall (§ 65(1)):</td>
</tr>
</tbody>
</table>
| A. The requirement of preparing a CIP does not apply to a township unless the township, alone or jointly with one of more local unit of governments, owns or operates a water supply or sewage disposal system (§ 65(2)). Although not required, such a township may still choose to prepare an annual CIP using the procedures here. Otherwise go to STEP 12. | A. Prepare a CIP, separate from or as part of, the annual budget;  
B. Delegate the preparation of the CIP to the chief elected official or a non-elected administrative official. |

<p>| B. The planning commission may recommend to the appropriate public officials, programs for public structures and improvements and for the financing thereof, regardless of whether the planning commission is exempted from the requirement to prepare a capital improvements program. Go to STEP 4 to see sample review criteria. | |</p>
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **Step 2.** (RECOMMENDED)  
The planning commission may set up a special CIP advisory committee consisting of volunteers from the community or a combination of volunteers and representatives from each department within the local unit of government.  
The planning commission should also include the following individual(s), agencies, and departments in preparing the capital improvement plan.  
1. Chief Executive (city manager, department heads, township manager, county controller/administrator, supervisor, city mayor, village president, etc.);  
2. All departments within the government;  
3. Finance and budget department: The financial office or the person responsible for conducting the financial analysis and projections on costs and revenues for a capital improvement program. The department(s) and determine(s) the best possible means to finance each capital project.  
4. The Planning department staff (if one exists). | Copy of the minutes of the planning commission meeting where the motion was adopted to appoint the advisory committee. |
| ☐ In the file | **Step 3.**  
The planning commission shall request from each agency or department of the local unit of government (with authority for public structures or improvements) for an annual inventory of desired public improvement projects with lists, plans and estimates of time and cost involved (§ 65(1)).  
This task can also be undertaken by the planning staff, if they are the coordinating the CIP process on behalf of the planning commission or the CIP advisory committee. | Copy of the letter, and list of who it was sent to, requesting inventory of desired public improvement projects sent to various agencies or departments of the local unit of government. |
### Check List #1J: Adopting and Updating a Capital Improvement Program

#### Page 6 of 8

**Task**

- Task is done
- In the file

**Step/Task to do**

| Step 4. | The planning commission (CIP advisory committee or planning staff) shall organize these public structures and improvements in the general order of their priority. Only those public structures and improvements that will be needed or desired, and can be undertaken in the ensuing 6-year period, shall be considered (§ 65(1)).
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The CIP drafted by the planning commission shall be based on the requirements of the local unit of government for all types of structures and improvement (§ 65(1)).</td>
</tr>
<tr>
<td>2. (RECOMMENDED)</td>
<td>The planning commission may make use of expert advice and information from staff from the planning department or private consultants.</td>
</tr>
<tr>
<td>A.</td>
<td>Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements –and Management's Discussing and Analysis– For State and Local Governments.</td>
</tr>
<tr>
<td>B.</td>
<td>Population studies</td>
</tr>
<tr>
<td>C.</td>
<td>Economic studies</td>
</tr>
<tr>
<td>D.</td>
<td>Land Use Maps</td>
</tr>
<tr>
<td>E.</td>
<td>Future Plans</td>
</tr>
<tr>
<td>3. (RECOMMENDED)</td>
<td>The planning commission should develop a formal set of criteria or use other techniques to rank the projects in order of importance. The following issues at a minimum should be considered:</td>
</tr>
<tr>
<td>A.</td>
<td>Description, location and purpose of project;</td>
</tr>
<tr>
<td>B.</td>
<td>Justification of the project;</td>
</tr>
<tr>
<td>C.</td>
<td>An explanation of its relationship to other projects;</td>
</tr>
<tr>
<td>D.</td>
<td>The cost of project (submit detailed budget);</td>
</tr>
<tr>
<td>E.</td>
<td>Estimation of annual income from projects;</td>
</tr>
<tr>
<td>F.</td>
<td>Estimation of annual operation costs for the project;</td>
</tr>
<tr>
<td>G.</td>
<td>Status of plans/specifications for the project and the expected length of time the capital project will last;</td>
</tr>
<tr>
<td>H.</td>
<td>Year construction of project should start;</td>
</tr>
<tr>
<td>I.</td>
<td>The rank/importance of project within department submitting it;</td>
</tr>
<tr>
<td>J.</td>
<td>Environmental, health, and safety impacts; and energy consumption.</td>
</tr>
</tbody>
</table>

| Step 5. (RECOMMENDED) | The planning commission should review each project to determine the conformance of the projects with the community comprehensive plan, development policies, and the objectives and goals of the community. |

| Step 6. (RECOMMENDED) | The planning commission should provide an opportunity for agencies to present their arguments for including any given project in the program. |

**Documents to file**

- Copy of responses to the letter sent in step 3.
- Minutes of meetings to draft the CIP.
- Copies of studies, documents, and reports leading up to the preparation of the CIP.

- Minutes of meetings where the review took place.
- Copies of correspondence, notes, or minutes where this opportunity was afforded.

---

*Check List #1J: Adopting and Updating a Capital Improvement Program*

*Michigan State University Extension Land Use Series*

*Page 6 of 8*

*May 1, 2008*
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 7. (RECOMMENDED) The planning commission should incorporate some form of public review into the decision making process.</td>
<td>Minutes of hearing, meeting, or record of the public review.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 8. The planning commission based on the CIP advisory committee (if one was appointed) or administrator/staff recommendations acts on the completed CIP (§ 65(1)) and; 1. Formally adopts the CIP. 2. Adopts an amended version of the CIP. 3. Does not approve, thus does not adopt, the ranked project priorities. Go back to STEP 4.</td>
<td>Certified copy of the minutes approving or disapproving the CIP.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 9. The planning commission makes a recommendation and forwards the CIP to the legislative body for adoption (§ 65(1)).</td>
<td>Certified copy of the minutes approving submission of the proposed CIP to the legislative body.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 10. The legislative body reviews the CIP (§ 65(1)) and: 1. Adopts the final CIP as is; 2. Rejects the CIP and refers it back to the planning commission. Go back to STEP 4. 3. Adopts the CIP with modifications (the legislative body has final authority over what is or is not included in the CIP).</td>
<td>A certified copy of the minutes of the legislative body’s action on the CIP.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 11. The planning commission shall annually review and update the CIP (§ 65 (1)). 1. The planning commission must review the next year’s proposed capital projects to determine whether the projects still help fulfill the community’s current planning goals and objectives. 2. The planning commission (with staff assistance if available) shall reexamine the entire CIP and prepare an updated CIP with revised costs, funding sources, timings, etc. for a new six-year period (Repeat steps 2 through 10).</td>
<td>Copies of studies, documents, reports leading up to the review of the CIP. Notes or minutes of meetings, or copies of letters</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>Step 12. After the adoption of a CIP or in the absence of a CIP (especially in those townships that are exempted from the requirements of preparing a CIP), construction shall not be started, or authorized, on a street, square, park, playground, public way, ground, or other open space or public building or other structure covered by a <em>municipal master plan</em> or <em>county plan</em> unless the legislative body or other body having jurisdiction over the authorization or financing of the project shall submit information regarding the location, character, and extent of the proposed street, public way, open space, structure or utility project to the planning commission for review and approval (§ 61(1)). See <em>Land Use Series</em>: “Checklist #1K; Review of Infrastructure/Public Capital Expenditure” for how those reviews should be conducted.</td>
<td>Information regarding proposed infrastructure improvement received by the planning commission for review.</td>
</tr>
</tbody>
</table>

See [Land Use Series](#): “Checklist #1K; Review of Infrastructure/Public Capital Expenditure” for how those reviews should be conducted.

[April 30, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Presentation Handouts\2008MiPlanningEnablingAct\pamphlet1J CIP.wpd]
Check List # 1K
Review of Infrastructure and Public Capital Expenditures

This is a step-by-step procedure for the planning commission to review the infrastructure or public capital expenditure plan proposed by the local unit of government, or other government agencies which may be proposing activity within the local unit of government’s jurisdiction. Before work can begin on any project in an area covered by a municipal or county master plan, the proposed project must be reviewed and approved by the planning commission. Therefore review of infrastructure and public capital expenditure plans is a very important function of any planning commission. This review should be considered just as important as any other function carried out by the planning commission.

This document is designed to provide a list of steps – in order – which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.), recommendations of Jasneet Sharma, MSU Extension Land Policy Educator, budget finance recommendations derived from the Citizen Planner Leadership Academy Weekend “Budget Finance” training materials developed by Kurt Schindler, MSU Extension Regional Land Use Educator, and Dean Solomon, Charlevoix County Extension Director.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The entire purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Author:
Jasneet Sharma, LAND POLICY EDUCATOR
Phone: (517)264-5300
Fax: (517)264-5317
e-mail: sharmaj@msu.edu
overland mail:
MSU Extension, Lenawee County
1040 S. Winter Street, #2020
Adrian, Mich. 49221-3967

The author would like to thank the following individuals for their review and assistance with this publication:
- Jason Ball, MSU GRADUATE STUDENT
- Brad Neumann, LAND POLICY EDUCATOR, St Joseph County;
- Kurt Schindler, REGIONAL LAND USE EDUCATOR, Wexford County;
- Lincoln Sweet, MSU GRADUATE STUDENT
Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq.
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq.
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq.

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist with sample materials; coordinating efforts between the

---

Related Publications

I.II.III.A.1.2.a.b.(1)(a)ii)iii)a)b1234 There are also separate procedural checklists for performing other planning and zoning functions. They are:

- Land Use Series: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
- Land Use Series: “#1B; Sample Ordinance to create a planning commission”
- Land Use Series: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- Land Use Series: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- Land Use Series: “#1E; Sample Bylaws for a planning commission.”
- Land Use Series: “Checklist #1F; What Should be in a Master Plan”
- Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan”
- Land Use Series: “Checklist #1H; The Five Year Plan Review.”
- Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan”
- Land Use Series: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- Land Use Series: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- Land Use Series: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
- Land Use Series: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- Land Use Series: “#1N; How a Planning Commission Should Respond to Submissions”
- Land Use Series, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
- Land Use Series, “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
- Land Use Series, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
- Land Use Series, “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
- Land Use Series, “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”

All of these are available at www.msue.msu.edu/lu/.

---

Glossary

I.II.III. The following terms are used in this publication, and have the following specific meanings.

- § means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.).
- Chief administrative official means the manager or other highest nonelected administrative official of a city or village.
- Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
- Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.
- Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.
- Local Unit of Government means a county or municipality.
- Municipality means a city, village or township.
- Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- Planning jurisdiction means the area encompassed by one of the following:
  - For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
  - For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
  - For a township who’s planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 et seq.), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
  - For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly adopt a plan. The third column is what should be included in a permanent file to document that work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

Review of infrastructure and capital expenditures occurs after adoption of a master plan (see Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan” and Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan”) by a local unit of government.

<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 1a. For a city, village and township:</strong> Review proposed infrastructure project. 1. A street; square, park, playground, public way, ground or other open space shall not be constructed or authorized for construction work in an area covered by a municipal master plan unless; a. The legislative body or other body having jurisdiction over the authorization or financing of the project submits information regarding the location, character, and extent of the proposed street, public way, open space, structure or utility project to the planning commission for review and approval (§ 61(1)).</td>
<td>Copy of communication from the government agency regarding the proposed infrastructure project.</td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>Step 1b. For a County:</strong> Review proposed infrastructure project. 1. Work shall not be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land; erection of structure; or the extension, construction, or improvement of any physical facility by any county board, department or agency unless; a. A full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the county planning commission (§ 61(2)).</td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 2. (RECOMMENDED)</strong> When reviewing the proposed project the planning commission should at a minimum consider the following issues; 1. Is the proposed project consistent with adopted plans? 2. Is the project consistent with other governmental management plans? 3. Is the project consistent with the plans of each municipality located within or contiguous to the local unit of government? 4. Is the project consistent with adopted, if any, capital improvement plans? <strong>NOTE:</strong> If the answer to any of the above is “no,” then the planning commission’s review of the project should not be favorable.</td>
<td>Minutes of meetings where the review took place.</td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>STEP 3a. For a city, village or Township</strong> The municipal planning commission shall approve or disapprove the project within 35 days and shall submit its reasons for approval or disapproval to the body having jurisdiction (§ 61(1)). 1. If the planning commission fails to respond within 35 days of submission of the proposal to the planning commission, the project shall be considered to be approved by the planning commission (§ 61(1)).</td>
<td><strong>STEP 3b. For County</strong> The county planning commission shall provide its report and advice regarding the proposal in writing. The reason for approval or disapproval must be provided to the county board, or agency sponsoring the proposal within 35 days after the proposal is filed with the county planning commission (§ 61(2)). 1. If the county planning commission fails to respond within 35 days after the proposal is filed with the county planning commission, the project shall be considered to be approved and work on the project may proceed (§ 61(2)).</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 4. (RECOMMENDED)</strong> The planning commission should conduct a formal review of the proposed project and act, by adoption of a motion that include findings of fact, recitation of reasons, and the action.</td>
<td>Minutes of meeting(s) where the motion was considered and acted upon.</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 5.</strong> The planning commission forwards its response to the body having jurisdiction.</td>
<td>Copy of the transmittal to the body having jurisdiction.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 6a. For city, village and township:</strong> If the planning commission’s action is to disapprove the project, the legislative body may decide to overrule the planning commission decision by a vote of 1. Not less than 2/3 of its entire membership for a city or village or for a township that on the enactment date of this act had a planning commission created under former 1931 PA 285 (§ 61(1)). 2. Not less than a majority of its membership for any other township (§ 61(1)).</td>
<td>A certified copy of the minutes of the legislative body’s action on the proposed project.</td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>Step 6b. For a county:</strong> Go to step 7.</td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
</tbody>
</table>
| □ Task is done | **Step 7a.** For a township planning commission that was created prior to September 1, 2008 and was organized under P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.31 et seq.), or for a city or village planning commission (§ 63);  
   For a legislative body to rescind its authorization for the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space that has been approved by a planning commission;  
   1. The legislative body shall resubmit the matter regarding the rescission to the municipal planning commission for review and approval (§ 63). | Certified copy of the minutes of the legislative body’s decision to rescind authorization for proposed project AND Certified copy of the minutes of the legislative body to resubmit the matter regarding the rescission to the planning commission for review and approval. |
| □ In the file | **Step 7b.** For a Township planning commission which was organized under P.A. 168 of 1959, as amended, (the Township Planning Act), for county planning commissions, and for county or township planning commissions organized under the Michigan Planning Enabling Act:  
   Go to step 11. | |
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| ☐ Task is done | **STEP 8a. For a township planning commission that was created prior to September 1, 2008 and was organized under P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.31 *et seq.*), or for a city or village planning commission (§ 63);** The municipal planning commission shall hold a public hearing on the matter (§ 63). *(RECOMMENDED) The notice shall include the following information:*  
  • Describe the nature of the request.  
  • Indicate the location of the project.  
  • A statement of when and where the issue will be considered.  
  • An indication of when and where written comments will be received concerning the issue.  
  The notice is given not less than 15 days before the date of consideration for approval. Notices shall be:  
  • Published in a newspaper of general circulation in the local unit of government. *(Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)*  
  • Send the notice, by mail, to each electric, gas, and pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected. | Minutes of hearing, meeting, or record of the public review. |
| ☐ In the file | **Step 8b. For a Township planning commission which was organized under P.A. 168 of 1959, as amended, (the Township Planning Act), for county planning commissions, and for county or township planning commissions organized under the Michigan Planning Enabling Act:** Go to step 11. | Copy of notice of hearing |

*List of who notices were sent to*
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 9a.</strong> For a township planning commission that was created prior to September 1, 2008 and was organized under P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.31 et seq.), or for a city or village planning commission (§ 63); The planning commission based on the public hearing and other findings of fact: 1. Approves the rescission of the previously authorized project; 2. Disapproves the rescission of the previously authorized project. a. If the planning commission fails to act within 63 days after submission of the proposed rescission to the planning commission, the proposed rescission shall be considered to be approved by the planning commission (§ 63).</td>
<td>Minutes of meeting to review the matter regarding the rescission of the authorization for the proposed project.</td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>Step 9b.</strong> For a Township planning commission which was organized under P.A. 168 of 1959, as amended, (the Township Planning Act), for county planning commissions, and for county or township planning commissions organized under the Michigan Planning Enabling Act: Go to step 11.</td>
<td></td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 10a. For a township planning commission that was created prior to September 1, 2008 and was organized under P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.31 et seq.), or for a city or village planning commission (§ 63); The planning commission submits its final recommendation along with reasons for approval or disapproval to the legislative body (§ 63).</td>
<td>Copy of the minutes approving submission of the final decision regarding the matter of rescission to the legislative body.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>Step 10b. For a Township planning commission which was organized under P.A. 168 of 1959, as amended, (the Township Planning Act), for county planning commissions, and for county or township planning commissions organized under the Michigan Planning Enabling Act: Go to step 11.</td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 11a. For a township planning commission that was created prior to September 1, 2008 and was organized under P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.31 et seq.), or for a city or village planning commission (§ 63); If the planning commission disapproves the rescission, the legislative body may overrule the decision of the planning commission by a vote of not less than ⅔ of its entire membership (§ 63).</td>
<td>Copy of the minutes of the legislative body’s final action on the rescission of authorization for the proposed project.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>Step 11. For a Township planning commission which was organized under P.A. 168 of 1959, as amended, (the Township Planning Act), for county planning commissions, and for county or township planning commissions organized under the Michigan Planning Enabling Act: The process ends, as the government agency proposing the process can choose to follow, or not to follow, the township planning commission’s (organized under the township planning act) or county planning commission’s advice.</td>
<td></td>
</tr>
</tbody>
</table>

[April 30, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Presentation Handouts\2008MiPlanningEnablingAct\pamphlet1K Infrastructure Review.wpd]
Check List #1L: 
For Adoption of a Subdivision Ordinance or Rules Governing the Subdivision of Land in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#1L) is for adoption of a new subdivision ordinance or rules governing the subdivision of land in Michigan. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned community.

This outline is based on Sec. 71 of the Michigan Planning Enabling Act PA 33 of 2008, as amended, MCL 125.3871 and the Land Division Act, PA 288 of 1967, as amended, MCL 560.101 et seq.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes. Only for matters that took place before September 1, 2008 should these old statutes still be reference.

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 et seq.
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 et seq.
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 et seq. (For cities, villages, and some township planning commissions created prior to 1959.) Of the three old planning acts, this is the only one which also had references to subdivision rules.

Subdivision regulations are police power regulations that apply to the division of land into one or more lots, with the principal focus on the creation of subdivisions involving many lots for principally future residential, commercial or industrial use.

“Thirty seven million acres is all the Michigan we will ever have.”

Former Governor
William G. Milliken

May 1, 2008
Subdivision regulations are based on a variety of public health, safety and general welfare considerations. The first is that poorly designed subdivisions, may cause harm on adjacent landowners, local units of government, and state agencies (like the Michigan Dept. of Transportation) because of strange lot sizes and shapes that force odd uses of land too close to abutting property, or bad ingress and egress which causes unsafe traffic conditions. The second is that each new subdivision should include required public infrastructure that connects with existing public infrastructure like roads, sewer and water lines, sidewalks, street lights, etc., while adequately and safely serving the needs of those who will live, work or play within the subdivision following its approval and construction. (See Michigan Planning Guidebook, Ch.7 “Subdivision Regulations”).

For any step of this process, the Michigan State University Extension members of the Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state;

**Related Publications**
There are also separate procedural checklists for performing other planning and zoning functions. They are:

- Land Use Series, "Checklist #1A; To create a planning commission"
- Land Use Series, "Sample #1B; Ordinance to create a planning commission"
- Land Use Series, "List #1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act."
- Land Use Series, "Checklist #1D; Steps to transition an existing planning commission to comply with the Michigan Planning Enabling Act"
- Land Use Series, "Sample #1E; Bylaws for a planning commission."
- Land Use Series, "Checklist #1F; Content of a Plan"
- Land Use Series, "Checklist #1G; Adoption of a Plan in Michigan"
- Land Use Series, "Checklist #1H; The Five Year Plan Review."
- Land Use Series, "Checklist #1I; Adoption of an Amendment to a Plan"
- Land Use Series, "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- Land Use Series, "Checklist #1K; Review of Infrastructure/Public Capital Expenditure"
- Land Use Series, "Checklist #1L; Adoption or Amendment of Subdivision Rules"
- Land Use Series, "#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan"
- Land Use Series, "#1N; How a Planning Commission Should Respond to Submissions"
- Land Use Series, "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- Land Use Series, "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- Land Use Series, "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan"
- Land Use Series, "Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan."
- Land Use Series, "Checklist #6; for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at http://web1.msue.msu.edu/wexford/LU/.

**Glossary**
The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 33 of 2007, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.).

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.

Local Unit of Government means a county, township, city, or village.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning jurisdiction means the area encompassed by one of the following:

- legal boundaries of a city or village for a city or village respectively;
- legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
- legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).
The Checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper subdivision ordinance, or amendment. The third column is what should be included in a permanent file to document the work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

Qualifier

Section 125.3881(4) of the Michigan Planning Enabling Act states,

“Unless repealed or rescinded by the legislative body, an ordinance or published rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105, need not be readopted under this act or amended to comply with this act but continue in effect under this act. However, if amended, the ordinance or published rules shall be amended under the procedures of this act.”
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 1.</strong> A plan, or at least the land use, zoning plan, or master street plan component of a plan has been adopted following each of the proper steps (see other check lists on adopting or amending a plan, and content of a plan).</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| ☐ Task is done | **Step 2.** A planning commission may proceed drafting a subdivision ordinance or rules governing the subdivision of land on its own initiative or upon request of the appropriate legislative body.  
If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, M.C.L. 125.3209, the county planning commission should draft a subdivision ordinance or rules governing the subdivision of land. (M.C.L. 125.3871(1)).  
If a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, M.C.L. 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, M.C.L. 124.501 to 124.512, or 1967 (Ex Sess) PA 8, M.C.L. 124.531 to 124.536, the county planning commission should draft a subdivision ordinance or rules governing the subdivision of land. (M.C.L. 125.3871(1)) | Copy of legislative body and/or planning commission minutes when the motion was made to draft subdivision ordinance or rules. |
| ☐ In the file | | |
Step 3. The planning commission should author the text of the subdivision ordinance or rules governing the subdivision of land in a manner that is consistent with section125.3871(1) of the Michigan Planning Enabling Act PA 33 of 2008 and the Land Division Act, PA 228 of 1967, as amended (MCL 560.101 et seq).

The ordinance or rules shall include: (Sec. 71 (5), (6), and (7))

- A process for holding a hearing on a proposed plat before the planning commission takes action on a subdivision, with notices provided not less than 15 days prior to the hearing to the land owner, person submitting the proposed plat and immediately adjoining land owners
- The process for acting on the proposed plat, based on standards contained within the ordinance, rules, and MCL 560.101 et seq., with a recommendation to the legislative body of approval, approval with conditions, or disapproval of the subdivision within 63 days after the proposed plat has been submitted.
- A clause that indicates if the planning commission does not act within 63 days, the subdivision shall be considered approved (unless the proprietor agrees to an extension of time).
- A clause that indicates if all standards contained within the ordinance, rules, and MCL 560.101 et seq. are met that the subdivision shall be approved.
- A clause that requires a recommendation to the legislative body for disapproval to be stated upon the records of the planning commission.
- A procedure for recording a subdivision approval as an amendment to the master plan in the records of the master plan and on the official copies of the master plan.

The ordinance or rules may also include (sec. 71(2)):

- Standards for plat design, including arrangement of streets to other existing or planned streets and the master plan;
- Standards for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air;
- Standards for avoidance of congestion of population, including minimum width and area of lots.
- Standards for the extent to which streets shall be graded and improved as a condition or precedent to the approval of a subdivision;

Consideration should also be given to adopting one comprehensive ordinance which includes provisions for review of subdivisions, land divisions (including bonus divisions, redivisions), and condominiumization of land (“site-condos”).
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
</table>
| □ Task is done | **Step 4.** (Optional, recommended) The planning commission should determine and author a procedure and policy for the administration and enforcement of the subdivision ordinance or rules. This should be contained in the subdivision ordinance, subdivision rules, or administrator’s manual including:  
  - sample applications for division or platting of land;  
  - published rules for of county and state agencies for carrying out requirements of the Land Division Act;  
  - policy that specifies the required contents of a certified survey and map;  
  - policy that specifies tax lien or assessment requirements as conditions of approval;  
  - policy that requires submission of title insurance;  
  - guidelines for reviewing and recording new plats and the responsibilities of parties involved;  
  - where records are kept;  
  - permit fees, appeals fees, special meeting fees. | Copy of administration manual, form, etc. |
<p>| □ In the file | | |
| □ Task is done | <strong>Step 5.</strong> (Optional) Submit the proposed ordinance for an informal review to a third party, such as a County Planning Office (if they provide such service), MSU Extension Land Use Team member, or a professional planner; and (strongly recommended) review by an attorney. | Copy of the review (letters, minutes, other) by county planning, MSUE or professional planner; and attorney. |
| □ In the file | | |
| □ Task is done | <strong>Step 6.</strong> The planning commission acts to hold a public hearing on the proposed ordinance or rules. The notice of the public hearing shall include the time and place of the public hearing. The notice shall be given not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government. (M.C.L 125.3871(3)) (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.) | Copy of notices of hearing, affidavit of publication, list of publishers notices were sent to. |
| □ In the file | | |
| □ Task is done | <strong>Step 7.</strong> The planning commission holds at least one public hearing on the subdivision ordinance. | Minutes of planning commission. |</p>
<table>
<thead>
<tr>
<th>Check List</th>
<th>Step/Task to do</th>
<th>Documents to file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 9.</strong> The planning commission shall adopt a resolution recommending to the legislative body to adopt the subdivision ordinance or rules, or to not adopt the subdivision ordinance or rules (M.C.L 125.3871(1)).</td>
<td>Copy of subdivision ordinance or rules</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 10.</strong> The planning commission secretary shall submit the subdivision ordinance or rules, with its recommendation, to the legislative body (MCL 125.3871(1)).</td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 11.</strong> The legislative body shall review the proposed subdivision ordinance or rules.</td>
<td>Minutes of legislative body.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 12.</strong> (Optional and recommended) If the legislative body considers changes, additions or amendments to the proposed subdivision ordinance or rules, the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body’s specified period of time.</td>
<td>Copy of the referral back to the planning commission.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 13.</strong> Note: The local unit of government may have policy, charter provisions, or requirements of statute which require additional steps be taken before an ordinance can be adopted. Those steps, or step, if any, should be inserted here.</td>
<td>Documentation these steps were taken, if any.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 14.</strong> The legislative body shall vote on the adoption of the proposed ordinance or rules, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body. The effective date of the subdivision ordinance or rules governing the subdivision of land should be made in the motion of adoption.</td>
<td>Copy of the legislative body minutes.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 15.</strong> A copy of the ordinance or rules, amendments and supplements shall be filed with the local unit of government’s clerk and if a township, also the county clerk.</td>
<td>Copy of adopted ordinance in permanent file</td>
</tr>
<tr>
<td>Check List</td>
<td>Step/Task to do</td>
<td>Documents to file</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 16.</strong> Note: The local unit of government may have policy, charter provisions, or requirements of statute which require additional steps be taken before an ordinance can be made effective. Those steps, or step, if any, should be inserted here:</td>
<td>Documentation these steps were taken, if any.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td><strong>Step 17.</strong> (Optional) Once the ordinance has taken effect, the legislative body may act to adopt a policy or procedure for administration and enforcement of the ordinance (See step 4), and/or the planning commission proceeds to amend its bylaws so they cover details on the process for reviewing, holding hearings on, conducting site plan review of, and other matters concerning the administration of adopted subdivision ordinance or rules.</td>
<td>Updated bylaws, administration manual, etc.</td>
</tr>
<tr>
<td>☐ Not applicable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 18.</strong> (Optional) The planning commission may periodically prepare a report on the operations of the subdivision ordinance or rules, recommendations for amendments, and other matters concerning subdivisions for the legislative body (§308(2), M.C.L. 125.3308(2)).</td>
<td></td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Organization and Codification of a Zoning Ordinance

What is Codification?

Codification is the numbering system and arrangement of articles and sections of a law. This bulletin focuses on the organization and codification of a municipal zoning ordinance.

There is a logical progression, or order, to which various parts of a zoning ordinance. The order in which parts of a zoning ordinance appear in written form should follow this logical progression.

There is also an advantage to using a uniform codification system within a county or area of the state. Often people who use zoning (real estate agents, land appraisers, professional land surveyors and people looking at several sites with intent to buy one parcel) are looking at many different ordinances. It makes their job much easier if each ordinance is organized in the same way.

There are a number of county planning commissions in Michigan which have made it a goal to have the numbering system in each municipal zoning ordinance in their county follow a uniform codification system. This bulletin focuses on a sample of one such system.

Numbering Style

The first task is to select a numbering style. This bulletin uses an outline style shown on the next page. The Section number (101 in the example, below) is numbered using a combination of the Article number (1) and the number of the section within that article (01). Another example would be section 7 of Article 34: 3407.

As illustrated below, each level of the outline also is indented a given number of tabs. Use of indentation makes the organization of the zoning ordinance easier to see and understand, and makes the ordinance more user friendly.
The example of a numbering system is here:

101. Section Title
   A. Subsection
      1. Paragraph
         a. Subparagraph
            (1) (a)
               i) a)

Most newer word processors (such as Corel WordPerfect™ or Microsoft Word™) have automated outline or paragraph numbering feature which can be customized by the user. If the entire ordinance is typed using its automated numbering system then cross references within the ordinance can be done by the word processor. A cross reference is when the text in a zoning ordinance refers to another section of the ordinance, such as “see Section 8607 of this Ordinance.” Cross referencing can be done by placing “target” and “reference” codes in the text. This gives the computer the job of keeping all cross references up-to-date so there is no need to go back and figure out the new cross reference each time a new section is added somewhere, and having to change the numbering of several paragraphs after that point. See the help screen or software user manual for details on how this works with your word processor.

The Logic Behind the Order in Which Things Appear

There should be a systematic progression of the various parts of a zoning ordinance. A law, or in this case a zoning ordinance, is not written like a book. The glossary should not be at the end of the ordinance. It is toward the beginning. This is because the definitions of words should be established in the ordinance before they are used: First define the word, then use it. Another example is the section on nonconforming uses. It should follow the articles of the zoning ordinance which establish the regulations: First establish the regulations, then present the exceptions.

Starting here is a general discussion of how a sample zoning ordinance might be organized. Articles are numbered starting with 1 and ending with 98. Article numbering skips many numbers, both to leave room to add additional articles in the future, and to group articles on similar topics together.

The first article, Article 1, is devoted to the title, purposes, codification and legal clauses of the zoning ordinance. The first task is to establish the ordinance title, how it is abbreviated. Spelling out the ordinance’s purpose, explaining how it is organized and clearly indicating the state statute under which the ordinance is adopted should all be presented first. These types of items should be established before starting the “meat” of the zoning ordinance.

Second is Article 5, to define specific words used in the ordinance. Some zoning ordinances divide the definitions into two lists. First is to define words; second is to define uses. Some ordinances also adopt by reference the “North American Industry Classification System Short Titles” (NAICS),¹ (formerly known as the “Standard Industrial Classification System” or SIC). NAICS is a system that lists all economic enterprises into a numeric classification system. For example “grocery stores” is classified as 44511, and is grouped with other enterprises as part of subsector “food & beverage stores (445) which is further grouped with even more enterprises as part of sector “retail trade” (44-45) The advantage of using NAICS is the ability to use the NAICS definitions of nearly every type of land use, without having to reiterate the large number of definitions in the zoning ordinance.

The series of articles, numbered 10 to 19, are for regulations which apply in all zoning districts.

That is to say the regulations apply everywhere in the municipality.

Article 10 is for general regulations. This is the article where regulations that are to be applied everywhere in the municipality and all types of uses: permitted uses, conditional uses, special uses. This article is further organized by placing sections on similar topics in groups numbered by 10.

- General provisions: Sections 1001 to 1009.
- Environmental, Water: Sections 1010 to 1019.
- Environmental, Solid Waste: Sections 1020 to 1029.
- Environmental, Land/other: Sections 1030 to 1039.
- Parcel & setback regulations: Sections 1040 to 1049.
- Vehicle access/roads/parking: Sections 1050 to 1059.
- Aesthetics, signs: Sections 1060 to 1069.
- Structure regulations: Sections 1070 to 1079.
- Dwelling/residential standards: Sections 1080 to 1089.
- Other special purpose: Sections 1090 to 1099.

Then, Article 14, is used to present regulations specifically for conditional use standards. In addition to general conditional use standards there may be specific standards for certain types of land uses. Those specific standards are in this article. As used here, conditional uses are in essence “special uses” as defined in the Michigan Zoning Enabling Act\(^2\). The intent of conditional use procedure is that the public hearing process would not normally be held, or the review process is in some other way streamlined compared to special use procedure. Standards for conditional uses are those criteria which, if each one is met, means the conditional use permit must be granted.

Article 16 is used to present regulations specifically for special use standards. In addition to general special use standards there may be specific standards for certain types of land uses. Those specific standards are in this article. Standards for special uses are those criteria which, if each one is met, means the special use permit must be granted.

The next article, 18, is to establish the various zoning districts, often listing each zoning district, establishes the fact the zoning map exists and how it is identified, how changes are shown, how it is replaced if old or worn out and lists rules for interpreting the map.

The next series of articles, numbered 20 to 79 are for each zoning district which exists in the municipality. They are grouped as follows:

- Specific districts: Environmental, historic, special; Articles 20 - 29. Examples include wetland districts, river protection districts, sand dune districts, historic districts, civic center and public/park districts.
- Specific districts: Agricultural, forestry, rural; articles 30 - 39. Examples include agriculture preservation or production districts, forest preservation or production districts, mining districts, rural residential districts.
- Specific districts: Residential; articles 40 - 49. Examples include all types of residential districts, single family, low, medium or high density; multiple family; and so on.
- Specific districts: Commercial; articles 50 - 59. Examples include retail, service, commercial, highway strip, downtown, secondary shopping type districts.
- Specific districts: Industrial: articles 60 - 69. Examples include industrial, manufacturing, warehouse, transportation districts.
- Overlay districts: Articles 70- 79. This set of districts are different than the above districts in that they “overlap” on top of the specific districts already established. Examples of overlay districts can include historic, lake or river shoreline overlay districts, sand dune overlay district, wellhead protection overlay district, airport height (airplane approach) limitations and so on.

---

\(^2\) P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 \textit{et seq.} ) (This footnote, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: For villages and cities the zoning enabling statute is the City and Village Zoning Act (being P.A. 207 of 1921, as amended, M.C.L. 125.581 \textit{et seq.} ); for townships and charter townships it is the Township Zoning Act (being P.A. 184 of 1943, as amended, M.C.L. 125.271 \textit{et seq.} ); for counties it is the County Planning Act (being P.A. 183 of 1943, as amended, M.C.L. 125.201 \textit{et seq.} ).
The next series of articles (80 - 89) center on nonconformities, zoning administrator, permit process and procedures for the zoning ordinance.

Article 80, introduces the possible exceptions to the zoning district regulations and general regulations. This is where the condition existed prior to the adoption date of the zoning ordinance, or amendment – “grandfathering” or “nonconformities”.

Article 82 creates the office of the zoning administrator and spells out the zoning administrator’s duties.

Article 84 establishes the procedures for a regular or permitted use zoning permit.

Article 85 establishes the procedures for a conditional use permit.

Article 86 establishes the procedures for a special use permit.

Article 88 establishes the procedures for a planned unit development.

The last set of articles (Articles 90-99) center on ordinance administration.

Article 94 establishes the requirements for what is shown on a site plan and the procedure for review of the site plan.

Article 96 establishes the zoning board of appeals, spells out the duties of the appeals board, how members are appointed, procedures for seeking an appeal and interpretation of the ordinance or variance from the requirements of the zoning ordinance.

The last, article 98, discusses amending the zoning ordinance and that procedure, repeal of the zoning ordinance, and other miscellaneous provisions.

The following is a sample of zoning text which establishes this codification system for a zoning ordinance. It should be placed in the first article of the zoning ordinance.

106. Codification

This Ordinance is codified by use of articles and sections, and organized in the following manner. Section numbers and article numbers not used in this Ordinance, or skipped, are reserved for future use.

A. Article 1-9 for introductory material for this Ordinance.

1. Article 1 for basic legal clauses such as but not limited to title, citation, purposes, legal basis, effective date, explanation of scope and codification.

2. Article 5 for definitions of words and uses which are used in this Ordinance.

B. Article 10-19 for general regulations applicable to all of the land under jurisdiction of this Ordinance.

1. Article 10 for general regulations which are applicable in all zoning districts. This article is further subset as follows:
   a. Sections 1000-1099 for general provisions.
   b. Sections 1010-1019 for water related environmental regulations.
   c. Sections 1020-1029 for solid waste related environmental regulations.
   d. Sections 1030-1039 for land and other environmental regulations.
   e. Sections 1040-1049 for parcel and setback regulations.
   f. Sections 1050-1059 for vehicle access, road and parking regulations.
   g. Sections 1060-1069 for aesthetic (sign, viewshed, sex oriented businesses and so on) regulations.
   h. Sections 1070-1079 for structure (not dwelling) regulations.
   i. Sections 1080-1089 for dwelling and residential regulations.
   j. Sections 1090-1099 for other special purpose general regulations which are not classified above.

2. Article 14 for standards for specific possible conditional uses.

3. Article 16 for standards for specific possible special uses.

4. Article 18 for establishment of the zoning map and definition of zoning districts.

C. Articles 20-79 for each zoning district, further organized as follows with articles 20-69 organized from least
intense to most intense:
1. Articles 20-29 for environmental, historic and other special zoning districts with each zoning district organized from least intense to most intense.
2. Articles 30-39 for agricultural, forestry, rural and rural residential zoning districts zoning districts with each zoning district organized from least intense to most intense.
3. Articles 40-49 for residential zoning districts with each zoning district organized from least intense to most intense.
4. Articles 50-59 for commercial zoning districts with each zoning district organized from least intense to most intense.
5. Articles 60-69 for industrial zoning districts with each zoning district organized from least intense to most intense.
6. Articles 70-79 for overlay districts.
D. Articles 80-89 for permit process and procedures.
   1. Article 80 for nonconformities.
   2. Article 82 for administration of the Ordinance.
   3. Article 83 for permit procedures.
   4. Article 85 for conditional uses procedures.
   5. Article 86 for special uses procedures.
   6. Article 88 for planned unit development procedures.
E. Articles 90-99 for Ordinance administration.
   1. Article 94 for site plan review process.
   2. Article 96 for appeals board.
   3. Article 98 for Ordinance amendment, validity, enforcement and penalties.

Sample Table of Contents
For purposes of an example, the following is a Table of Contents of a zoning ordinance which follows the codification system outlined in this bulletin. Listing the title of each section can help clarify what parts of an ordinance are placed where.

<table>
<thead>
<tr>
<th>General category/grouping of sections</th>
<th>ARTICILE number and ARTICLE title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction sections and legal clauses</td>
<td>ARTICLE 1: TITLE, PURPOSES AND LEGAL CLAUSES</td>
</tr>
<tr>
<td>101. Title</td>
<td>102. Purposes</td>
</tr>
<tr>
<td>103. Legal Basis</td>
<td>104. Effective Date</td>
</tr>
<tr>
<td>105. Scope</td>
<td>106. Codification</td>
</tr>
<tr>
<td>ARTICLE 5: DEFINITIONS</td>
<td>501. Purpose</td>
</tr>
<tr>
<td>502. Undefined Words</td>
<td>503. Definitions of words</td>
</tr>
<tr>
<td>General regulations applicable in all of the municipality</td>
<td>ARTICLE 10: GENERAL REGULATIONS</td>
</tr>
<tr>
<td>1001. Purpose</td>
<td>1002. Scope</td>
</tr>
<tr>
<td>Environmental, Water</td>
<td>Environmental, Water Facilities</td>
</tr>
<tr>
<td>1010. Water Supply and Sewage Facilities</td>
<td>1011. Water Protection</td>
</tr>
<tr>
<td>1012. Vegetation Belt</td>
<td>1013. Hazardous Substance Groundwater Protection</td>
</tr>
<tr>
<td>Environmental, Solid Waste</td>
<td>Environmental, Solid Waste</td>
</tr>
<tr>
<td>1020. Waste Accumulation and Outside Storage</td>
<td>1030. Greenbelt</td>
</tr>
<tr>
<td>1031. High Risk Erosion Area</td>
<td>1032. Sand Dune</td>
</tr>
<tr>
<td>Parcel &amp; setback regulations</td>
<td>Parcel &amp; setback regulations</td>
</tr>
<tr>
<td>1040. Fences</td>
<td>1041. Buffer Zone</td>
</tr>
<tr>
<td>1042. Height</td>
<td>1043. Parcel Width to Depth Ratio</td>
</tr>
<tr>
<td>Vehicle access/roads/parking</td>
<td>Vehicle access/roads/parking</td>
</tr>
<tr>
<td>1050. Access to Public Roads</td>
<td>1051. Driveway and Curb Cuts</td>
</tr>
<tr>
<td>1052. Private Road</td>
<td>1053. Traffic Visibility at Corners</td>
</tr>
<tr>
<td>1054. Vehicular Parking Space, Access and Lighting</td>
<td></td>
</tr>
<tr>
<td>Aesthetics, signs</td>
<td>Aesthetics, signs</td>
</tr>
<tr>
<td>1060. Signs</td>
<td>1061. Sex-orientated Businesses</td>
</tr>
<tr>
<td>Structure regulations</td>
<td>Structure regulations</td>
</tr>
<tr>
<td>1070. Location of Accessory Buildings and Structures</td>
<td>1071. Temporary Dwellings</td>
</tr>
<tr>
<td>Dwelling/residential standards</td>
<td>Dwelling/residential standards</td>
</tr>
<tr>
<td>1080. Dwellings</td>
<td>1082. Second Dwelling on a Parcel</td>
</tr>
<tr>
<td>1083. Additional Living Unit in Dwellings</td>
<td></td>
</tr>
</tbody>
</table>
ARTICLE 14: CONDITIONAL USE SPECIFIC STANDARDS
1401. Purpose
1402. Non-farm home in an Agricultural Production districts.
1403. Upstairs rental units in commercial districts.

ARTICLE 16: SPECIAL USE SPECIFIC STANDARDS
1601. Purpose
1602. Any in River Corridor District
1603. Any in Agriculture Preservation District
1604. Livestock Agriculture
1605. Campgrounds
1606. Mobile Home Parks
1607. Mining
1608. Temporary mining
1609. Manufacturing, Trucking and Warehousing
1610. Junkyards
1611. Sweetening Plants

ARTICLE 18: GENERAL ZONING DISTRICT PROVISIONS
1801. Establishment of Districts
1802. Provision for Official Zoning Map
1803. Identification of Official Zoning Map
1804. Changes to Official Zoning Map
1805. Authority of Official Zoning Map
1806. Replacement of Official Zoning Map
1807. Rules of Interpretation
1808. Application of Regulations

Specific districts; environmental, historic, special
ARTICLE 20: RIVER CORRIDOR DISTRICT
2001. Purpose
2002. Permitted Uses
2003. Special Uses
2004. Regulations and Standards

ARTICLE 25: WETLAND CONSERVATION DISTRICT
2501. Purpose
2502. Permitted Uses
2503. Special Uses
2504. Regulations and Standards

ARTICLE 27: CIVIC CENTER DISTRICT
2701. Purpose
2702. Permitted Uses
2703. Special Uses
2704. Regulations and Standards

ARTICLE 29: MULTIPLE USE DISTRICT
2901. Purpose
2902. Permitted Uses
2903. Special Uses
2904. Regulations and Standards

Specific districts; agricultural, forestry, rural
ARTICLE 30: AGRICULTURE PRESERVATION DISTRICT
3001. Purpose:
3002. Permitted Uses:
3003. Conditional Uses:
3004. Special Uses:
3005. Permitted Use Regulations and Standards
3006. Special Use and Conditional Use Regulations and Standards

ARTICLE 34: FOREST PRESERVATION DISTRICT
3401. Purpose
3402. Permitted Uses
3403. Special Uses
3404. Regulations and Standards

ARTICLE 37: RURAL RESIDENTIAL DISTRICT
3701. Purpose
3702. Permitted Uses
3703. Special Uses
3704. Regulations and Standards

Specific districts; residential
ARTICLE 40: RESIDENTIAL DISTRICT
4001. Purpose
4002. Permitted Uses
4003. Special Uses
4004. Regulations and Standards

ARTICLE 42: SPECIAL RESIDENTIAL DISTRICT
4201. Purpose
4202. Principal Uses Permitted
4203. Special Uses
4204. Regulations and Standards

ARTICLE 44: MULTIPLE FAMILY RESIDENTIAL DISTRICT
4401. Purpose
4402. Permitted Uses
4403. Special Uses
4404. Regulations and Standards

Specific districts; commercial
ARTICLE 50: NEIGHBORHOOD-COMMERCIAL DISTRICT
5001. Purpose
5002. Permitted Uses
5003. Special Uses
5004. Regulations and Standards

ARTICLE 53: COMMERCIAL DISTRICT
5301. Purpose
5302. Permitted Uses
5303. Special Uses
5304. Regulations and Standards

ARTICLE 55: HIGHWAY COMMERCIAL DISTRICT
5501. Purpose
5502. Permitted Uses
5503. Special Uses
5504. Regulations and Standards

ARTICLE 57: LAKEFRONT COMMERCIAL DISTRICT
5701. Purpose
ARTICLE 59: DOWNTOWN BUSINESS DISTRICT
5901. Purpose
5902. Permitted Uses
5903. Special Uses
5904. Regulations and Standards

Specific districts; industrial
ARTICLE 60: LIGHT INDUSTRIAL DISTRICT
6001. Purpose
6002. Permitted Uses
6003. Special Uses
6004. Regulations and Standards

ARTICLE 63: INDUSTRIAL DISTRICT
6301. Purpose
6302. Permitted Uses
6303. Special Uses
6304. Regulations and Standards

ARTICLE 67: LAKEFRONT INDUSTRIAL DISTRICT
6701. Purpose
6702. Permitted Uses
6703. Special Uses
6704. Regulations and Standards

Overlay districts
ARTICLE 70: HISTORIC OVERLAY DISTRICT
7001. Purpose
7002. Overlay District
7003. Uses Permitted
7004. Use Regulations
7005. Historic Standards
7006. Review Procedure
7007. Site Plan

ARTICLE 72: LAKE SHORELINE OVERLAY DISTRICT
7201. Purpose
7202. Area Affected
7203. Permitted Uses
7204. Regulations

ARTICLE 74: SAND DUNE OVERLAY DISTRICT
7401. Purpose
7402. Area Affected
7403. Parcels Affected
7404. Application Requirements
7405. Permitted and Prohibited Uses
7406. Site Plan Review
7407. Use Standards
7408. Sand Dune Special Use Project Review Procedures
7409. Nonconforming Uses
7410. Variances
7411. Penalties

ARTICLE 76: WELLHEAD PROTECTION OVERLAY DISTRICT
7601. Area Affected
8603. Application and Fee
8604. Information Required in Application
8605. Review for Completeness
8606. Notice of Public Hearing
8607. Hearing and Decision
8608. Special Use Permit Standards
8609. Special Use Permit Conditions
8610. Record of Special Use Permit
8611. Security Requirement
8612. Amendment of Special Use Permits
8613. Transfer of Special Use Permit
8614. Construction Code Permit
8615. Expiration of Special Use Permits
8616. Violation of Permit

ARTICLE 88: PLANNED UNIT DEVELOPMENT
8801. Purpose
8802. Eligibility
8803. Procedure
8804. Basic restrictions and Modification Procedure

Ordinance administration
ARTICLE 94: SITE PLAN
9401. Purpose
9402. Site Plan Review
9403. Optional Sketch Plan Review
9404. Required Data for a Basic Site Plan
9405. Required Data for a Medium Site Plan
9406. Required Data for a Detailed Site Plan
9408. Submission of a Site Plan
9409. Review for Completeness
9410. Standards for Site Plan Review
9411. Approval and Compliance
9412. Conditions of Site Plan Approval
9413. Security Requirement
9414. File Copies
9415. Zoning Permits
9416. Amendment of Site Plan

ARTICLE 96: APPEALS BOARD
9601. Appeals Board Established
9602. Duties of the Appeals Board
9603. Variance
9604. Voiding of and reapplication for Variance
9605. Interpretation of Ordinance Text
9606. Appeals to the Appeals Board

ARTICLE 98: AMENDMENT VALIDITY PENALTIES
9801. Initiating Amendments and Fees
9802. Amendment Procedure
9803. Conformance to Court Decree
9804. Violations and Penalties: Nuisance Per Se: Abatement
9805. Caption
9806. Repeal of Ordinance
9807. Pending Zoning Applications
9808. Validity and Severability Clause
9809. Period of Effectiveness

Detailed Word Processing Instructions
For those who work with Corel WordPerfect 7.0™, detailed step-by-step instructions are available to walk one through the process of taking a zoning ordinance in a word processor and inserting cross reference “target” and “reference” codes, marking article and section titles to a table of contents, and organizing the text to use the codification system outlined in this pamphlet. This material can be obtained from:

Kurt H. Schindler, Regional Land Use Educator, Northwest and west central Michigan
MSU Extension, Wexford County
401 N. Lake Street
Cadillac, Michigan 49601-1891
phone (231)779-9480
fax (231)779-9105
e-mail: schindl9@msu.edu

[December 15, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Bulletins MSUE Wexford\pamphletZoningCodification.wpd]
Bringing Knowledge to Life!

“Thirty seven million acres is all the Michigan we will ever have.”

Former Governor William G. Milliken

Michigan State University Extension Land Use Team

http://ntweb11a.ais.msu.edu/luaoe/index.asp

Land Use Series

May 1, 2008

Check List # 2
For Adoption of a Zoning Ordinance in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#2) is for adoption of a new zoning ordinance in Michigan. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), and recommendations of Kurt H. Schindler, MSU Extension land use team member. This version of the checklists includes to the Michigan Zoning Enabling Act through February 12, 2008 (P.A. 12 of 2008).

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in the box on page 2.

The Michigan Zoning Enabling Act is a new statute, that changes how various zoning procedures are done. The entire purpose of this act was to create a single set of procedures to follow regardless if zoning is being done in a city, village, township, or county. After July 1, 2006 (the effective date of the act) only the procedures in the Michigan Zoning Enabling Act should be used (and the following statutes must not be used any more). Even if local zoning has a different procedure, the procedures in the Michigan Zoning Enabling Act have to be used starting July 1, 2006.

Within a year (July 1, 2007) local zoning has to be amended to reflect the procedures in the Michigan Zoning Enabling Act. This act replaces the following statutes. Only for matters that took place before July 1, 2006 should the old statutes be referenced:

• P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # C2; For Adoption of a County Zoning Ordinance in Michigan”.

• P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # T2; For Adoption of a Township Zoning Ordinance in Michigan”.

• P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

Author:
Kurt H. Schindler, REGIONAL LAND USE EDUCATOR; Member, MSU LAND USE TEAM
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindl9@msu.edu
overland mail: MSU Extension, Wexford County 401 N. Lake Street –Suite 400 Cadillac, Mich. 49601-1891

with review by:
• Mark A. Wyckoff, DIRECTOR PLANNING AND ZONING CENTER AT MSU
• Jason Ball, MSU GRADUATE STUDENT
• Lincoln Sweet, MSU GRADUATE STUDENT
This outline is not designed as a substitute for reading and understanding the Michigan Zoning Enabling Act. This outline is not a substitute for legal advice. There is no substitute for hiring an attorney. Do not attempt to adopt or amend an ordinance without an attorney.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file, so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the

### Related Publications

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series**: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
- **Land Use Series**: “#1B; Sample Ordinance to create a planning commission”
- **Land Use Series**: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- **Land Use Series**: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- **Land Use Series**: “#1E; Sample Bylaws for a planning commission.”
- **Land Use Series**: “Check list #1F; What Should be in a Master Plan”
- **Land Use Series**: “Checklist #1G; For Adoption of a Plan in Michigan”
- **Land Use Series**: “Checklist #1H; The Five Year Plan Review.”
- **Land Use Series**: “Check list #1J; For Adoption of an Amendment to a Plan”
- **Land Use Series**: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- **Land Use Series**: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- **Land Use Series**: “Checklist #1L; Adoption of Amendment of Subdivision Rules”
- **Land Use Series**: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- **Land Use Series**: “#1N; How a Planning Commission Should Respond to Submissions”
- **Land Use Series**, “Check list #2; for Adoption of a Zoning Ordinance in Michigan.”
- **Land Use Series**, “Check list #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
- **Land Use Series**, “Check list #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan.”
- **Land Use Series**, “Check list #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
- **Land Use Series**, “Check list #6; for Processing a Zoning Appeal and Variance in Michigan.”

All of these are available at www.msue.msu.edu/lu/.

### Glossary

The following terms are used in this publication, and have the following specific meanings.

- § means the section number of Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.),
- **Chief administrative official** means the manager or other highest nonelected administrative official of a city or village.
- **Chief elected official** means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
- **Ex officio member** means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office.
- **Legislative Body** means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.
- **Local Unit of Government** means a county, township, city, or village.
- **Municipality** means a city, village or township.
- **Plan** means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- **Planning Commission** means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled. In a few communities it may still be a “zoning board” (townships) or “zoning commission” (city and villages). Has used here, the use of the term “planning commission” includes all of these terms.
- **Zoning jurisdiction** means the area encompassed by one of the following:
  - legal boundaries of a city or village for a city or village respectively;
  - legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
  - legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §209, M.C.L. 125.3209).
documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 1. A plan, or at least the land use (or zoning plan) component of a plan has been adopted following each of the proper steps (see checklists # 1G, 1H, and 1I).</td>
<td>Check lists for Plan Adoption for the documentation and steps which should be followed.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PLANS.** The planning acts gives importance to plans: First, “Master Plan’ means either of the following: . . . (ii)Any plan adopted or amended under this Act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and **used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act**, 206 PA 110, M.C.L. 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.” (emphasis added). (§3(g), M.C.L. 125.3203(g))

Section 203(1) of the Michigan Zoning Enabling Act reads “The zoning ordinance shall be based upon a plan . . . .” (§203(1), M.C.L. 125.3203(1)). (See additional references to Airport Plans (§203(2-4), M.C.L. 125.3203(2-4)). Zoning ordinances adopted after March 28, 2001 shall be consistent with any airport zoning regulations. Any zoning amendment adopted after March 28, 2001 shall not increase any inconsistency with any airport zoning regulations.)
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done          | **Step 2.** The legislative body for your government acts to form a planning commission as specified by the Michigan Planning Enabling Act (M.C.L. \_\_\_ et seq. (including transferring all the powers and duties of a zoning commission to the planning commission):  
  - For cities and villages, townships, and counties wishing to have their own individual planning commission:: P.A.33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. \_\_\_83(2) and \_\_\_83(3).)  
  - For any two, or more, city(ies), village(s), or township(s) wishing to plan and zone jointly: P.A. 226 of 2003, as amended, (being the Joint Municipal Planning Act, M.C.L. 125.131 et seq.)  

**Or**  
The legislative body acts to form a zoning commission as specified in §211, M.C.L. 125.3211 and §301, (M.C.L. 125.3301).  
It is also possible for citizens to petition for the creation of a zoning commission, see §211(3), M.C.L. 125.3211(3).  
It is also possible for citizens to petition for the creation of a zoning commission, see §211(3), M.C.L. 125.3211(3).  
Beginning July 1, 2011, a zoning commission’s powers and duties under the Michigan Zoning Enabling Act or an ordinance under that act shall only be exercised or performed by a planning commission. (Thus a zoning commission shall cease to exist.) (§301(2), M.C.L. 125.3301(2))  
A planning commission already in existence on July 1, 2006 may continue. (§301(1), M.C.L. 125.3301(1))  

□ Task is done          | **Step 3.** The planning commission should author (1) the text of a zoning ordinance and (2) prepare the zoning map (establish zoning districts). In doing so the planning commission may use information, experts and assistance as is available. The materials prepared should include:  
  1. A zoning plan for the areas subject to zoning of the local unit of government.  
  2. The establishment of zoning districts, including the boundaries of those districts.  
  3. The text of a zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.  

□ Task is done          | **Step 4.** The planning commission should determine and author a procedure, policy for the administration and enforcement of the zoning ordinance. This should be contained in a zoning administrator’s manual including:  
  - sample zoning permit applications;  
  - special use permit applications;  
  - occupancy permits;  
  - form letters for handling violations and other situations;  
  - policy for handling violation/enforcement problems and at what point an attorney becomes involved and prosecution is started;  
  - where records are kept;  
  - expectations for patrol and inspections in the township; and  
  - permit fees, appeals fees, special meeting fees.  

Also the planning commission’s bylaws (or rules of procedure) need to cover details on the process for considering amendments, and administration of the ordinance, ethics, conflict of interest, zoning administrator supervision, and so on.  

□ In the file          | Copy of legislative body minutes where creation of zoning board (or combining it with planning) took place.  

□ In the file          | Copy of office manual, application forms, etc.  

---

*Check List 2: For Adoption of a Zoning Ordinance in Michigan*  
*Michigan State University Extension Land Use Series*  
*Page 4 of 9*  
*May 1, 2008*
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 5.</strong> (Optional) Submit the proposed ordinance for an informal review to a third party, such as a County Planning Office (if they provide such service), MSU Extension Land Use Area of Expertise team member (if they provide such service), or a professional planner; <strong>and review by an attorney is strongly recommended.</strong></td>
<td>Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| □ Task is done         | **Step 6.** The planning commission shall hold at least one public hearing on the zoning ordinance (§306(1), M.C.L. 125.3306(1)). Notices for the public hearing are required. The notice shall include the following information:  
  • Describe the nature of the request, e.g., that this is a hearing on a proposed new zoning ordinance (§103(4)(a), M.C.L. 125.3103(4)(a)).  
  • Indicate the property(ies) which is(are) subject of the proposed new zoning ordinance (§103(4)(b), M.C.L. 125.3103(4)(b)).  
  • A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)).  
  • An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)).

  The notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:
  - Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)
  - Send the notice, by mail, to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2))

See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3). | Copy of notices of hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to, Minutes of public hearing. |
| □ In the file          |              |                           |
| □ Task is done         | **Step 7.** For cities, villages, and counties.  

Go to step 8. |  
**Step 7.** For Townships  

After the hearing, the planning commission shall submit the proposed ordinance to the County Planning Commission (§307, M.C.L. 125.3307). (One should check with the County Planning Department to find out the deadline prior to the County Planning Commission meeting for submittal.) The planning commission has 30 days for this review. The review is waived if not received by the township within the 30 days.

It is recommended the following be provided with the submittal to the county: A letter from the township’s lawyer stating:

  a. He or she reviewed the proposed ordinance.
  b. It is written properly.
  c. It has been adopted properly to date.
  d. In his or her opinion he or she can uphold its provisions in court.  
  
  For townships:  

Letter of transmittal to the County Planning Commission  

Copy of attorney’s letter to County Planning Commission. |                           |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done          | **Step 8.** The planning commission should adopt a resolution recommending to the legislative body to adopt the zoning ordinance, or to not adopt the zoning ordinance, and file with the legislative body (§305, M.C.L. 125.3305):  
  • A zoning plan for the areas subject to zoning of the local unit of government.  
  • The establishment of zoning districts, including the boundaries of those districts.  
  • The text of a zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.  
  • The manner of administering and enforcing the proposed zoning ordinance.  
  • A written summary of each comment made at the public hearing(s). (§308(1), M.C.L. 125.3308(1))  
  • If a township, a copy of County Planning Commission’s recommendations on the proposed zoning. | Copy of zoning ordinance, zoning map, zoning manual and forms.  
  Copy of County Planning Commission recommendation on zoning ordinance. |
| □ In the file            |              |                           |
| □ Task is done          | **Step 9.** The legislative body shall review the proposed zoning ordinance. | Minutes of the legislative body meeting. |
| □ In the file            |              |                           |
| □ Task is done          | **Step 10.** (Optional, which may or may not happen) The legislative body may hold an additional hearing on the proposed ordinance/amendment if it considers it necessary (or as may be required by city or village charter) (§401(1), M.C.L. 125.3401(1)). Notices for the public hearing are required (§401(2), M.C.L. 125.3401(2)). The notice shall include the following information:  
  • Describe the nature of the request (§103(4)(a), M.C.L. 125.3103(4)(a)).  
  • Indicate the property(ies) which is(are) subject of the hearing (§103(4)(b), M.C.L. 125.3103(4)(b)).  
  • A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)).  
  • An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)).  
  If a hearing is held, the notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:  
  • Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)  
  • Send the notice by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2))  
  See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).  
  The legislative body shall hold a hearing on a zoning ordinance if an interested property owner requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the above requirements. The notice for this requested hearing shall include the following information:  
  • Description the nature of the request.  
  • Indicate the property(ies) which is(are) subject of the request.  
  • A statement of when and where the request will be considered.  
  • An indication of when and where written comments will be received concerning the request.  
  If a requested hearing is held, the notices shall be given not less than 15 days before the date of the requested hearing (§401(4), M.C.L. 125.3401(4)). Notices shall be:  
  • Sent to the interested property owner. | Copy of notices of hearing,  
  affidavit notices were delivered,  
  affidavit of publication,  
  list of who notices were sent to,  
  Copy of landowner’s request,  
  Minutes of public hearing. |
| □ In the file            |              |                           |
| □ Task is done          | **Step 11.** If the legislative body considers changes, additions or amendments to the proposed ordinance; the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body’s specified period of time. (§401(3), M.C.L. 125.3401(3)) | Copy of legislative body’s request. |
| □ In the file            |              |                           |
### Step 12. The legislative body shall vote on the adoption of the proposed ordinance, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body (§401(5), M.C.L. 125.3401(5)).

**Copy in the permanent file**

<table>
<thead>
<tr>
<th>Task is done</th>
<th>Step, or Task</th>
<th>Copy of minutes (including motion and vote) to adopt the zoning ordinance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td><strong>Task is done</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>In the file</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>Step 12.</strong> The legislative body shall vote on the adoption of the proposed ordinance, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body (§401(5), M.C.L. 125.3401(5)).</td>
<td></td>
</tr>
</tbody>
</table>

**Step 12a. For a city or village.**

The ordinance shall take effect:

- seven days after a "notice of adoption" has been published, step 14, or
- a later date specified by the legislative body or charter.

**Step 12a. For a township or county.**

The ordinance shall take effect:

- seven days after a "notice of adoption" has been published, step 14, (§401(6), M.C.L. 125.3401(6)), or
- If a petition was not filed: expiration of the 30 days after a "notice of adoption" was published, step 16. (§402(3)(a), M.C.L. 125.3402(3)(a)), or
- If a petition was filed: when the legislative body’s clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly) (§402(3)(b), M.C.L. 125.3402(3)(b)), or
- If an adequate petition was filed: after the results of an election (step 15c) have been certified to have adopted the zoning ordinance/amendment (§402(3)(c), M.C.L. 125.3402(3)(c)), or
- a later date specified by the legislative body or charter (§401(6), M.C.L. 125.3401(6)).

**Copy in the permanent file**

<table>
<thead>
<tr>
<th>Task is done</th>
<th>Step, or Task</th>
<th>Copy of minutes (including motion and vote) to adopt the zoning ordinance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td><strong>Task is done</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>In the file</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>Step 13.</strong> A copy of the ordinance, amendments, supplements, and maps shall be filed with the local unit of government’s clerk (§401(7), M.C.L. 125.3401(7)) and if a township, also the county clerk. A copy of the notice of adoption, step 14, shall be mailed to an airport(s) manager (see §306, M.C.L. 125.3306). If the county planning commission so requested, a copy of the zoning ordinance shall be provided to the county planning commission. The copy may be sent electronically (M.C.L. 125.3869).</td>
<td></td>
</tr>
</tbody>
</table>

**Copy in the permanent file**

<table>
<thead>
<tr>
<th>Task is done</th>
<th>Step, or Task</th>
<th>Copy of the adopted ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td><strong>Task is done</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>In the file</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>Step 14.</strong> One notice of “ordinance adoption”, within 15 days of adoption (step 12), shall be published in a local newspaper (§401(7), M.C.L. 125.3401(7). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.) The notice shall include (§401(9), M.C.L. 125.3401(9)):</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task is done</th>
<th>Step, or Task</th>
<th>Copy of the “notice of ordinance adoption” and affidavit of publication. Statement of effective date of the ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td><strong>Task is done</strong></td>
<td></td>
</tr>
<tr>
<td>□</td>
<td><strong>In the file</strong></td>
<td></td>
</tr>
<tr>
<td>Check when task is done</td>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>------------------------</td>
<td>--------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>✗ Step 15. (Optional) A copy of the ordinance can be placed on file with the _____</td>
<td>The updated ordinance.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>✗ Step 15a. For villages and cities. (With no charter referendum options)</td>
<td>Copy of the “notice of intent.”</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>Go to step 16.</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>✗ Step 15b. For villages and cities. (With no charter referendum options)</td>
<td>Copy of petition, or documentation by the clerk saying the petition was not received within the 30 day period.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>Go to step 16.</td>
<td></td>
</tr>
</tbody>
</table>

**Step 15a.** (Which may, or may not happen). **For townships and counties.** (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)

Within seven days after the “notice of adoption” has been published (step 12a) a registered elector in the zoning jurisdiction may file with the clerk of the legislative body a “notice of intent” to file a petition to bring all, or part of, the zoning ordinance to a vote. (§402(1), M.C.L. 125.3402(1))

**Step 15b.** (Which may, or may not happen). **For townships and counties.** (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)

Within 30 days of the ordinance adoption (step 12a) that elector can file the petition with the clerk of the legislative body to have the zoning ordinance adoption (or a specified portion of the zoning ordinance) placed on the ballot. The petition needs to be signed by 15 percent of the qualified and registered voters in the zoning jurisdiction of the total vote cast for all candidates for governor at the last preceding general election. (§402(2), M.C.L. 125.3402(2))
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done         | **Step 15c. For villages and cities.** (With no charter referendum options)  
Go to step 16. | A copy of clerk’s determination on the petition. |
| □ In the file          | **Step 15c.** (Which may, or may not happen). **For townships and counties.** (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)  
The clerk of the legislative body reviews the petition and determines that the petition is inadequate or is adequate (e.g. is/isn’t enough qualified signatures, drafted properly/improperly). If the petition is adequate, the legislative body sets the date for that election. (§402(3), M.C.L. 125.3402(3)) | Copy of election results. |
| □ Task is done         | **Step 16.** Once the ordinance has taken effect, the legislative body should act to do the following things:  
- Adopt a policy or procedure for administration and enforcement of the ordinance (step 8).  
- Appoint a zoning board of appeals as specified in the new zoning ordinance. (The board of appeals should meet as soon as possible to elect their officers, adopt their rules of procedure and bylaws.)  
- Act to appoint or hire a zoning administrator (the administrator should be instructed to follow the procedure and policy set by the planning commission and/or adopted by the legislative body). Once hired the zoning administrator should create an inventory of existing buildings which are nonconforming uses (easiest way is through use of tax roll or tax map air photos to establish uses at the start of a new ordinance or amendment). | Copy of the minutes for the meeting where action was taken.  
Copy of the policy or procedure.  
Copy of the appointments to the ZBA  
Contract/employment for zoning administrator. |
| □ In the file          | **Step 17.** The planning commission shall periodically prepare a report on the operations of the zoning ordinance, recommendations for amendments and supplements for the legislative body (§308(2), M.C.L. 125.3308(2)). | |

[August 15, 2008; Wexford MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\BulletinsMSUE\Wexford\pamphlet2zone\NewOrdChecklst.wpd]
Check List # 3
For Adoption of an Interim Zoning Ordinance in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#3) is for adoption of a new interim zoning ordinance in Michigan. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), and recommendations of Kurt H. Schindler, MSU Extension land use team member. This version of the checklists includes to the Michigan Zoning Enabling Act through February 12, 2008 (P.A. 12 of 2008).

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in the box on page 2.

The Michigan Zoning Enabling Act is a new statute, that changes how various zoning procedures are done. The entire purpose of this act was to create a single set of procedures to follow regardless if zoning is being done in a city, village, township, or county. After July 1, 2006 (the effective date of the act) only the procedures in the Michigan Zoning Enabling Act should be used (and the following statutes must not be used any more). Even if local zoning has a different procedure, the procedures in the Michigan Zoning Enabling Act have to be used starting July 1, 2006.

Within a year (July 1, 2007) local zoning has to be amended to reflect the procedures in the Michigan Zoning Enabling Act. This act replaces the following statutes. Only for matters that took place before July 1, 2006 should the old statutes be referenced:

1. P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # C2; For Adoption of a County Zoning Ordinance in Michigan”.
2. P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # T2; For Adoption of a Township Zoning Ordinance in Michigan”.
3. P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with sample materials; coordinating efforts between...
the township, county, and the state; and providing guidelines.
This outline is not designed as a substitute for reading and understanding the Michigan Zoning Enabling Act. This outline is not a substitute for legal advice. There is no substitute for hiring an attorney. **Do not** attempt to adopt or amend an ordinance without an attorney.

**Related Publications**

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series**: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
- **Land Use Series**: “#1B; Sample Ordinance to create a planning commission”
- **Land Use Series**: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- **Land Use Series**: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- **Land Use Series**: “#1E; Sample Bylaws for a planning commission.”
- **Land Use Series**: “Checklist #1F; What Should be in a Master Plan”
- **Land Use Series**: “Checklist #1G; For Adoption of a Plan in Michigan”
- **Land Use Series**: “Checklist #1H; The Five Year Plan Review.”
- **Land Use Series**: “Checklist #1I; For Adoption of an Amendment to a Plan”
- **Land Use Series**: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- **Land Use Series**: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- **Land Use Series**: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
- **Land Use Series**: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- **Land Use Series**: “#1N; How a Planning Commission Should Respond to Submissions”
- **Land Use Series**: “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
- **Land Use Series**: “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
- **Land Use Series**: “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan”
- **Land Use Series**: “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”
- **Land Use Series**: “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

It is **important** to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file, so years from now they are still available.

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the...
documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td></td>
<td>Check lists for Plan Adoption for the documentation and steps which should be followed.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Step 1.**
The legislative body for your government acts to form a planning commission as specified by the Michigan Planning Enabling Act (M.C.L. __ et seq. (including transferring all the powers and duties of a zoning commission to the planning commission):

4. For cities and villages, townships, and counties wishing to have their own individual planning commission: P.A.33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. __83(2) and __ 83(3).)

5. For any two, or more, city(ies), village(s), or township(s) wishing to plan and zone jointly: P.A. 226 of 2003, as amended, (being the Joint Municipal Planning Act, M.C.L. 125.131 et seq.)

**OR**
The legislative body acts to form a zoning commission as specified in §211, M.C.L. 125.3211 and §301, (M.C.L. 125.3301).

It is also possible for citizens to petition for the creation of a zoning commission, see §211(3), M.C.L. 125.3211(3).

Beginning July 1, 2011, a zoning commission’s powers and duties under the Michigan Zoning Enabling Act or an ordinance under that act shall only be exercised or performed by a planning commission. (Thus a zoning commission shall cease to exist.) (§301(2), M.C.L. 125.3301(2))

A zoning board already in existence on July 1, 2006 may continue as a zoning commission. However the powers and duties of the zoning board shall be transferred to a planning commission by July 1, 2001. (§301.(2), M.C.L. 125.3301(2))

A planning commission already in existence on July 1, 2006 may continue. (§301(1), M.C.L. 125.3301(1))

Because adoption of an interim zoning ordinance starts with creation of a zoning commission, and because after July 1, 2011 a local government may no longer create a zoning commission there is a question if interim zoning ordinances can be adopted after July 1, 2011.
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 2.</strong> A plan, or at least the land use (or zoning plan) component of a plan has been adopted following each of the proper steps (see checklists # 1G, 1H, and 1I). PLANS. The planning acts gives importance to plans: First, [\text{“Master Plan’ means either of the following: . . . (ii)Any plan adopted or amended under this Act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act, 206 PA 110, M.C.L. 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.” (emphasis added). (§3(g), M.C.L. _._3(g))}] Section 203(1) of the Michigan Zoning Enabling Act reads “The zoning ordinance shall be based upon a plan . . . .” (§203(1), M.C.L. 125.3203(1)). (See additional references to Airport Plans (§203(2-4), M.C.L. 125.3203(2-4)). Zoning ordinances adopted after March 28, 2001 shall be consistent with any airport zoning regulations. Any zoning amendment adopted after March 28, 2001 shall not increase any inconsistency with any airport zoning regulations.)</td>
<td>Copy of legislative body minutes where creation of zoning board (or combining it with planning) took place.</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 3.</strong> The legislative body may direct the planning commission to submit, within a specified period of time, recommendations for an interim zoning ordinance. (Can only be in effect for one year, with possible maximum of two one year extensions; three years total.)</td>
<td>Copy of directive.</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 4.</strong> The planning commission should author (1) the text of an interim zoning ordinance and (2) prepare the interim zoning map (establish zoning districts). In doing so the planning commission may use information, experts and assistance as is available. The materials prepared should include: 6. A zoning plan for the areas subject to zoning of the local unit of government. 7. The establishment of zoning districts, including the boundaries of those districts. 8. The text of an interim zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.</td>
<td>Copy of legislative body minutes with the motion adopting the directive.</td>
</tr>
<tr>
<td>Check when task is done</td>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------</td>
<td>---------------------------</td>
</tr>
</tbody>
</table>
| □ Task is done          | **Step 5.** The planning commission should determine and author a procedure for the administration and enforcement of the interim zoning ordinance. This should be contained in a zoning administrator’s manual including:  
• sample zoning permit applications;  
• special use permit applications;  
• occupancy permits;  
• form letters for handling violations and other situations;  
• policy for handling violation/enforcement problems and at what point an attorney becomes involved and prosecution is started;  
• where records are kept;  
• expectations for patrol and inspections in the local unit of government;  and  
• permit fees, appeals fees, special meeting fees.  
Also the planning commission’s bylaws (or rules of procedure) need to cover details on the process for considering amendments, and administration of the ordinance, ethics, conflict of interest, zoning administrator supervision, and so on. | Copy of office manual, application forms, etc. |
| □ Task is done          | **Step 6.** (Optional) Submit the proposed interim zoning ordinance for an informal review to a third party, such as a County Planning Office (if they provide such service), MSU Extension Land Use Area of Expertise team member (if they provide such service), or a professional planner; **and review by an attorney is strongly recommended.** | Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney. |
| □ Task is done          | **Step 7.** For cities, villages, and counties. Go to step 8. | For townships:  
Letter of transmittal to the County Planning Commission  
Copy of attorney's letter to County Planning Commission. |
| □ Task is done          | **Step 7.** For Townships  
Before presenting its recommendations to the legislative body the planning commission shall submit the proposed interim zoning ordinance to the County Planning Commission (§307, M.C.L. 125.3307). (One should check with the County Planning Department to find out the deadline prior to the County Planning Commission meeting for submittal.) The planning commission has 15 days for this review. The review is waived if not received by the township within the 15 days.  
It is recommended the following be provided with the submittal to the county: A letter from the township's lawyer stating:  
 a. He or she reviewed the proposed ordinance.  
 b. It is written properly.  
 c. It has been adopted properly to date.  
 d. He or she can uphold its provisions in court. |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done          | Step 8. The planning commission should adopt a resolution recommending to the legislative body to adopt the interim zoning ordinance, or to not adopt the interim zoning ordinance, and file with the legislative body (§305, M.C.L. 125.3305):  
  - A zoning plan for the areas subject to zoning of the local unit of government.  
  - The establishment of zoning districts, including the boundaries of those districts.  
  - The text of an interim zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.  
  - The manner of administering and enforcing the proposed interim zoning ordinance.  
  - In a township, a copy of County Planning Commission’s recommendations on the proposed interim zoning. | Copy of interim zoning ordinance, interim zoning map, zoning manual and forms.  
Copy of County Planning Commission recommendation on interim zoning ordinance. |
| □ Task is done          | Step 9. The legislative body shall review the proposed interim zoning ordinance. | Minutes of the legislative body meeting. |
| □ Task is done          | Step 10. (Optional, which may or may not happen) The legislative body may hold a hearing on the proposed ordinance/amendment if it considers it necessary (or as may be required by city or village charter) (§401(1), M.C.L. 125.3401(1)). Notices for the public hearing are required (§401(2), M.C.L. 125.3401(2)). The notice shall include the following information:  
  - Describe the nature of the request (§103(4)(a), M.C.L. 125.3103(4)(a)).  
  - Indicate the property(ies) which is(are) subject of the hearing (§103(4)(b), M.C.L. 125.3103(4)(b)).  
  - A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)).  
  - An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)).  
  If a hearing is held, the notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:  
  - Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)  
  - Send the notice by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2))  
See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).  
The legislative body shall hold a hearing on a zoning ordinance if a interested property owner requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the above requirements. The notice for this requested hearing shall include the following information:  
  - Description the nature of the request.  
  - Indicate the property(ies) which is(are) subject of the request.  
  - A statement of when and where the request will be considered.  
  - An indication of when and where written comments will be received concerning the request  
  If a requested hearing is held, the notices shall be given not less than 15 days before the date of the requested hearing (§401(4)), M.C.L. 125.3401(4)). Notices shall be:  
  - Sent to the interested property owner. | Copy of notices of hearing, affidavits were delivered, affidavit of publication, list of who notices were sent to, Copy of landowner’s request, Minutes of public hearing. |
<p>| □ Task is done          | Step 11. If the legislative body considers changes, additions or amendments to the proposed interim zoning ordinance; the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body’s specified period of time. (§401(3), M.C.L. 125.3401(3)) | Copy of legislative body’s request. |</p>
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 12a.</strong> The legislative body shall vote on the adoption of the proposed interim zoning ordinance, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body (§401(5), M.C.L. 125.3401(5)).</td>
<td>Copy of minutes (including motion and vote) to adopt the interim zoning ordinance. Most recent copy of the appeals board appointments.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 12b.</strong> For a city or village. The ordinance shall take effect (§401(6), M.C.L. 125.3401(6)):</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• seven days after a “notice of adoption” has been published, step 14, or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• a later date specified by the legislative body, or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• given immediate effect specified by the legislative body (§404(3), M.C.L. 404(3)).</td>
<td></td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>Step 12b.</strong> For a township or county. The ordinance shall take effect:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• seven days after a “notice of adoption” has been published, step 14, (§401(6), M.C.L. 125.3401(6)), or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If a petition was not filed: expiration of the 30 days after a “notice of adoption” was published, step 16, (§402(3)(a), M.C.L. 125.3402(3)(a)), or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If a petition was filed: when the legislative body’s clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly) (§402(3)(b), M.C.L. 125.3402(3)(b)), or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If an adequate petition was filed: after the results of an election (step 15c) have been certified to have adopted the zoning ordinance/amendment (§402(3)(c), M.C.L. 125.3402(3)(c)), or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• a later date specified by the legislative body (§401(6), M.C.L. 125.3401(6)), or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• given immediate effect specified by the legislative body (§404(3), M.C.L. 404(3)).</td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td><strong>Step 13.</strong> A copy of the interim ordinance, amendments, supplements, and maps shall be filed with the local unit of government’s clerk (§401(7), M.C.L. 125.3401(7)) and if a township, also the county clerk. A copy of the notice of adoption, step 14, shall be mailed to an airport(s) manager (see §306, M.C.L. 125.3306). If the county planning commission so requested, a copy of the zoning ordinance shall be provided to the county planning commission. The copy may be sent electronically (M.C.L. 125.3869).</td>
<td>Copy of the adopted ordinance Copy of mailing to airport(s) manager. If a township, a copy of filing with the county clerk Copy of mailing to county planning commission.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Check when task is done</td>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>------------------------</td>
<td>--------------</td>
<td>---------------------------</td>
</tr>
</tbody>
</table>
| □ Task is done         | **Step 14.** One notice of “ordinance adoption”, within 15 days of adoption (step 12), shall be published in a local newspaper (§401(7), M.C.L. 125.3401(7)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.) The notice shall include (§401(9), M.C.L. 125.3401(9)):  
  • The following statement:  
    “A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the (county, township, city, or village) of _____.”  
  • The effective date of the ordinance.  
  • The place where and the time when a copy of the ordinance may be purchased or inspected. | Copy of the “notice of ordinance adoption” and affidavit of publication. Statement of effective date of the ordinance |
| □ Task is done         | **Step 15.** (Optional) A copy of the interim zoning ordinance can be placed on file with the _____. | The interim zoning ordinance. |
| □ Task is done         | **Step 16.** Once the interim zoning ordinance has taken effect, the legislative body should act to do the following things:  
  • Adopt a policy or procedure for administration and enforcement of the interim ordinance (step 8).  
  • Appoint a zoning board of appeals as specified in the interim zoning ordinance. (The board of appeals should meet as soon as possible to elect their officers, adopt their rules of procedure and bylaws.)  
  • Act to appoint or hire a zoning administrator (the administrator should be instructed to follow the procedure and policy set by the planning commission and/or adopted by the legislative body). Once hired the zoning administrator should create an inventory of existing buildings which are nonconforming uses (easiest way is through use of tax roll or tax map air photos to establish uses at the start of a new ordinance or amendment). | Copy of the minutes for the meeting where action was taken. Copy of the policy or procedure. Copy of the appointments to the ZBA Contract/employment for zoning administrator. |
| □ Task is done         | **Step 17.** The planning commission should start work on preparing a [permanent] zoning ordinance (see Land Use Series “Checklist #2; for Adoption of a New Zoning Ordinance in Michigan.”)  
  After one year from the effective date of the interim ordinance the legislative body may adopt a resolution to extend the interim zoning ordinance for a second year, or the ordinance expires. After two years from the effective date of the interim ordinance the legislative body may adopt a resolution to extend the interim zoning ordinance for a third year, or the ordinance expires. At the end of the third year the interim ordinance expires and no longer has any force or effect. | Respective certified resolution(s) to extend the interim zoning ordinance. |

[August 15, 2008; Wexford MSUE Ced: C:\Documents and Settings\Kurt Schindler\My Documents\wp\BulletinsMSUE Wexford\pamphlet\zoneInterimOrdChecklst.wpd]
Check List # 4
For Adoption of a Zoning
Ordinance Amendment (including some PUDs) in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#4) is for adoption of a zoning ordinance amendment in Michigan. Some planned unit developments (PUD) are also handled as zoning amendments. This checklist is for PUD zoning amendments also. This checklist is designed to provide a list of steps -- in order -- which leads to a well planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.), and recommendations of Kurt H. Schindler, MSU Extension land use team member. This version of the checklists includes to the Michigan Zoning Enabling Act through February 12, 2008 (P.A. 12 of 2008).

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in the box on page 2.

The Michigan Zoning Enabling Act is a new statute, that changes how various zoning procedures are done. The entire purpose of this act was to create a single set of procedures to follow regardless if zoning is being done in a city, village, township, or county. After July 1, 2006 (the effective date of the act) only the procedures in the Michigan Zoning Enabling Act should be used (and the following statutes must not be used any more). Even if local zoning has a different procedure, the procedures in the Michigan Zoning Enabling Act have to be used starting July 1, 2006.

Within a year (July 1, 2007) local zoning has to be amended to reflect the procedures in the Michigan Zoning Enabling Act. This act replaces the following statutes. Only for matters that took place before July 1, 2006 should the old statutes be referenced:

1. P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # C2; For Adoption of a County Zoning Ordinance in Michigan”.
2. P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # T2; For Adoption of a Township Zoning Ordinance in Michigan”.
3. P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

Author:
Kurt H. Schindler, REGIONAL LAND USE EDUCATOR, member MSU LAND USE TEAM
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindl9@msu.edu
overland mail: MSU Extension, Wexford County 401 N. Lake Street –Suite 400 Cadillac, Mich. 49601-1891

with review by:
Mark A. Wyckoff, DIRECTOR
PLANNING AND ZONING CENTER AT MSU
Jason Ball, MSU GRADUATE STUDENT
Lincoln Sweet, MSU GRADUATE STUDENT
For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

This outline is not designed as a substitute for reading and understanding the Michigan Zoning Enabling Act. This outline is not a substitute for legal advice. There is no substitute for hiring an attorney. **Do not** attempt to adopt or amend an ordinance without an attorney.

It is **important** to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal,

---

**Related Publications**

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”**
- **Land Use Series: “#1B; Sample Ordinance to create a planning commission.”**
- **Land Use Series: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”**
- **Land Use Series: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act.”**
- **Land Use Series: “#1E; Sample Bylaws for a planning commission.”**
- **Land Use Series: “Checklist #1F; What Should be in a Master Plan.”**
- **Land Use Series: “Checklist #1G; For Adoption of a Plan in Michigan.”**
- **Land Use Series: “Checklist #1H; The Five Year Plan Review.”**
- **Land Use Series: “Checklist #1I; For Adoption of an Amendment to a Plan.”**
- **Land Use Series: “Checklist #1J; Adopting and Updating a Capital Improvement Program.”**
- **Land Use Series: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure.”**
- **Land Use Series: “Checklist #1L; Adoption of Amendment of Subdivision Rules.”**
- **Land Use Series: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan.”**
- **Land Use Series: “#1N; How a Planning Commission Should Respond to Submissions.”**
- **Land Use Series: “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”**
- **Land Use Series: “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”**
- **Land Use Series: “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan.”**
- **Land Use Series: “Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan.”**
- **Land Use Series: “Checklist #6; for Processing a Zoning Appeal and Variance in Michigan.”**

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

---

**Glossary**

The following terms are used in this publication, and have the following specific meanings.

- § means the section number of Public Act 110 of 2006, as amended. (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.).
- **Chief administrative official** means the manager or other highest nonelected administrative official of a city or village.
- **Chief elected official** means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.
- **Ex officio member** means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office.
- **Legislative Body** means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.
- **Local Unit of Government** means a county, township, city, or village.
- **Municipality** means a city, village or township.
- **Plan** means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.
- **Planning Commission** means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled. In a few communities it may still be a “zoning board” (townships) or “zoning commission” (city and villages). Has used here, the use of the term “planning commission” includes all of these terms.
- **Zoning jurisdiction** means the area encompassed by one of the following:
  - legal boundaries of a city or village for a city or village respectively;
  - legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
  - legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county
The checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 1.</strong> The proposal to amend the zoning ordinance (text, or map) is</td>
<td>Copy of the request for the zoning amendment.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>initiated. Such action can be taken by: 4. The planning commission,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. The legislative body,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any person with interest in property in the zoning jurisdiction.</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 2.</strong> The planning commission should cause preparation of a draft of</td>
<td>Copies of the proposed zoning amendment.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>(1) the text of a zoning amendment and (2) prepare an amendment to the zoning</td>
<td></td>
</tr>
<tr>
<td></td>
<td>map including revised boundaries to zoning districts (rezoning), if</td>
<td></td>
</tr>
<tr>
<td></td>
<td>applicable. In doing so the planning commission may use information,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>experts and assistance as is available.</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 3.</strong> The planning commission should review existing procedure, policy</td>
<td>Copy of office manual, application forms, etc.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>for the administration and enforcement of the zoning ordinance to determine</td>
<td></td>
</tr>
<tr>
<td></td>
<td>if the proposed amendments require any modification to those procedures</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and policies. These should be contained in a zoning administrator’s manual</td>
<td></td>
</tr>
<tr>
<td></td>
<td>including:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• sample zoning permit applications;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• special use permit applications;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• occupancy permits;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• form letters for handling violations and other situations;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• policy for handling violation/enforcement problems and at what point an</td>
<td></td>
</tr>
<tr>
<td></td>
<td>attorney becomes involved and prosecution is started;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• where records are kept;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• expectations for patrol and inspections in the township; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• permit fees, appeals fees, special meeting fees.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Also, the planning commission should review its bylaws (or rules of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>procedure) for the same purpose.</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 4.</strong> (Optional) Submit the proposed ordinance for an informal review</td>
<td>Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>to a third party, such as a County Planning Office (if they provide such</td>
<td></td>
</tr>
<tr>
<td></td>
<td>service), MSU Extension Land Use Area of Expertise team member (if they</td>
<td></td>
</tr>
<tr>
<td></td>
<td>provide such service), or a professional planner; <strong>and review by an attorney</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>is strongly recommended.</td>
<td></td>
</tr>
<tr>
<td>Check when task is done</td>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 5.</strong> The planning commission shall hold at least one public hearing on the zoning ordinance (§306(1), M.C.L. 125.3306(1)). Notices for the public hearing are required. The notice shall include the following information:</td>
<td>Copy of notices of hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to. Minutes of public hearing</td>
</tr>
<tr>
<td>☐ In the file (notices, etc.)</td>
<td>• Describe the nature of the request, e.g., that this is a hearing on a proposed new zoning ordinance (§103(4)(a), M.C.L. 125.3103(4)(a)).</td>
<td></td>
</tr>
<tr>
<td>☐ In the file (minutes)</td>
<td>• Indicate the property(ies) which is(are) subject of the proposed new zoning ordinance (§103(4)(b), M.C.L. 125.3103(4)(b)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then a listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used (§103(4)(b), M.C.L. 125.3103(4)(b)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to owners of property(ies) for the land which is the subject of the notice/hearing/amendment (§103(2), M.C.L. 125.3103(2)).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is the subject of the notice/hearing/amendment regardless of whether the owner and property are located in the zoning jurisdiction or not. (§103(2), M.C.L. 125.3103(2))</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to one person occupying each structure, unit or spatial area within 300 feet of the property(ies) which is the subject of the notice/hearing/amendment regardless of whether the structure and occupant are located in the zoning jurisdiction or not. If a structure contains more than four dwelling units, notice shall only be sent to the manager to be posted near the main entrance. (§103(2), M.C.L. 125.3103(2))</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Send the notice by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2))</td>
<td></td>
</tr>
<tr>
<td></td>
<td>See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).</td>
<td></td>
</tr>
</tbody>
</table>

<p>| ☐ Task is done | <strong>Step 6.</strong> After the hearing, the planning commission should consider adoption of the zoning amendment. Action may be to recommend to the legislative body adoption, or not. Regardless of the recommendation, the process does not end until all steps in this checklist are completed. The determination as to if the zoning amendment should be recommended for adoption, or not, is based mainly on if the amendment complies with, or furthers, the plan upon which the zoning ordinance is based. There are additional factors which should also be considered, found in part II “Adoption/Amendment/Rezoning” of <em>Michigan Zoning Guidebook: for Citizens and Local Officials</em>. | Minutes of the commission meeting which contains this motion. |</p>
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 7.</td>
<td>For townships:</td>
</tr>
<tr>
<td>□ In the file</td>
<td>For cities, villages, and counties.</td>
<td>Letter of transmittal to the County Planning Commission</td>
</tr>
<tr>
<td></td>
<td>Go to step 8.</td>
<td>Copy of attorney's letter to County Planning Commission</td>
</tr>
<tr>
<td></td>
<td>Step 7.</td>
<td>For Townships</td>
</tr>
<tr>
<td></td>
<td>For Townships</td>
<td>Copy of zoning ordinance, zoning map, zoning manual and forms.</td>
</tr>
<tr>
<td></td>
<td>After the hearing, the planning commission shall submit the proposed zoning amendment, with its tentative recommendation, to the County Planning Commission (§307, M.C.L. 125.3307). (One should check with the County Planning Department to find out the deadline prior to the County Planning Commission meeting for submittal.) The planning commission has 30 days for this review. The review is waived if not received by the township within the 30 days. It is recommended the following be provided with the submittal to the county: A letter from the township's lawyer stating: a. He or she reviewed the proposed ordinance. b. It is written properly. c. It has been adopted properly to date. d. In his or her opinion he or she can uphold its provisions in court.</td>
<td>Copy of County Planning Commission recommendation on zoning ordinance.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 8.</td>
<td>Minutes of the legislative body meeting.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>The planning commission should adopt a resolution recommending to the legislative body to adopt the zoning amendment, or to not adopt the zoning amendment, and file with the legislative body (§305, M.C.L. 125.3305): • The text of a zoning amendment, with the necessary maps and zoning regulations to be adopted. • The manner of administering and enforcing the proposed zoning ordinance or a statement that this does not change. • A written summary of each comment made at the public hearing(s). (§308(1), M.C.L. 125.3308(1)) • If a township, a copy of County Planning Commission’s recommendations on the proposed zoning.</td>
<td>Copy of zoning ordinance, zoning map, zoning manual and forms.</td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 9.</td>
<td></td>
</tr>
<tr>
<td>□ In the file</td>
<td>The legislative body shall review the proposed zoning amendment.</td>
<td></td>
</tr>
<tr>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td>Step 10. (Optional, which may or may not happen) The legislative body may hold an additional hearing on the proposed ordinance/amendment if it considers it necessary (or as may be required by city or village charter) (§401(1), M.C.L. 125.3401(1)). Notices for the public hearing are required (§401(2), M.C.L. 125.3401(2)). The notice shall include the following information:</td>
<td>Copy of notices of hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to, Copy of landowner’s request, Minutes of public hearing.</td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ In the file (notices, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ In the file (minutes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ In the file (notices, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ In the file (minutes)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).

The legislative body shall hold a hearing on a zoning ordinance if a interested property owner requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the above requirements. The notice for this requested hearing shall include the following information:

- Description the nature of the request.
- Indicate the property(ies) which is(are) subject of the request.
- A statement of when and where the request will be considered.
- An indication of when and where written comments will be received concerning the request

If a requested hearing is held, the notices shall be given not less than 15 days before the date of the requested hearing (§401(4)), M.C.L. 125.3401(4)). Notices shall be:

- Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)
- If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to owners of property(ies) for the land which is the subject of the notice/hearing/amendment (§103(2), M.C.L. 125.3103(2)).
- If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is(are) subject of the zoning jurisdiction or not. (§103(2), M.C.L. 125.3103(2))
- If the zoning amendment involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to one person occupying each structure, unit or spatial area within 300 feet of the property(ies) which is the subject of the notice/hearing/amendment regardless of whether the structure and occupant are located in the zoning jurisdiction or not. If a structure contains more than four dwelling units, notice shall only be sent to the manager to be posted near the main entrance. (§103(2), M.C.L. 125.3103(2))
- Send the notice by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2))

See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 11.</strong> If the legislative body considers changes, additions or amendments to the proposed zoning amendment; the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body’s specified period of time. (§401(3), M.C.L. 125.3401(3))</td>
<td>Copy of legislative body’s request.</td>
</tr>
</tbody>
</table>
| □ In the file           | **Step 11a.** (Which may, or may not happen). **For cities and villages.**  
                          Protest petition (abutter’s challenge) concerning the proposed zoning amendment may be filed with the city or village. The protest petition shall:  
                          • Be signed by owners of at least 20% of the area of land included in the proposed zoning amendment.  
                          • Be signed by owners of at least 20% of the area of land included in the proposed zoning amendment and land within an area extending 100 feet from any point on the boundary of the land included in the proposed change (not including publicly owned land). (§202(4), M.C.L. 125.3202(4) and §403, M.C.L. 125.3403). | Copy of the protest petition. |
| □ Task is done          | **Step 11a.** For Townships and counties.  
                          Go to step 12. | Copy of the clerk’s finding the petition has enough/not enough signatures. |
| □ In the file           | **Step 11b.** (Which may, or may not happen). **For cities and villages.**  
                          If a protest petition is received and found valid, the legislative body shall require ⅔ vote of the legislative body to adopt the zoning amendment (step 12). Some villages and cities may have a charter requirement, or an ordinance requirement which requires an even larger super-majority (but not more than ¾ vote of the legislative body to adopt the zoning amendment (step 12). (§202(4), M.C.L. 125.3202(4) and §403, M.C.L. 125.3403). | Go to step 12. |
| □ Task is done          | **Step 11b.** For Townships and counties.  
                          Go to step 12. | |
| □ In the file           | | |

---

**Checklist #4; For adoption of a Zoning Ordinance Amendment (including PUD) in Michigan**  
**Michigan State University Extension Land Use Series**  
May 1, 2008  
Page 7 of 11
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 12. The legislative body shall vote on the adoption of the proposed zoning amendment, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body (unless subject to a protest petition in a village or city, see step 11b) (§401(5), M.C.L. 125.3401(5)).</td>
<td>Copy of minutes (including motion and vote) to adopt the zoning ordinance. Most recent copy of the appeals board appointments.</td>
</tr>
<tr>
<td>□ In the file</td>
<td>□ Task is done □ In the file</td>
<td></td>
</tr>
</tbody>
</table>
| □ Task is done          | Step 12a. For a city or village. The zoning amendment shall take effect (§401(6), M.C.L. 125.3401(6)):  
  • seven days after a "notice of adoption" has been published, step 14, or  
  • a later date specified by the legislative body. | |
| □ In the file           | Step 12a. For a township or county. The zoning amendment shall take effect:  
  • seven days after a "notice of adoption" has been published, step 14 (§401(6), M.C.L. 125.3401(6)), or  
  • If a petition was not filed: expiration of the 30 days after a "notice of adoption" was published, step 16 (§402(3)(a), M.C.L. 125.3402(3)(a)), or  
  • If a petition was filed: when the legislative body’s clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly) (§402(3)(b), M.C.L. 125.3402(3)(b)), or  
  • If an adequate petition was filed: after the results of an election (step 15c) have been certified to have adopted the zoning ordinance/amendment (§402(3)(c), M.C.L. 125.3402(3(c)), or  
  • a later date specified by the legislative body (§401(6), M.C.L. 125.3401(6)). | |
| □ Task is done          | Step 13. A copy of the zoning amendment, amendments, supplements, and maps shall be filed with the local unit of government’s clerk (§401(7), M.C.L. 125.3401(7)) and if a township, also the county clerk.  
A copy of the notice of adoption, step 14, shall be mailed to an airport(s) manager (see §306, M.C.L. 125.3306).  
If the county planning commission had requested to be provided with a copy of the zoning ordinance, then a copy of the zoning amendment shall also be provided to the county planning commission. The copy may be sent electronically (M.C.L. 125.3869). | Copy of the adopted ordinance  
Copy of mailing to airport(s) manager.  
If a township, a copy of filing with the county clerk  
Copy of mailing to county planning commission. |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done         | **Step 14.** One notice of “ordinance adoption”, within 15 days of adoption (step 12), shall be published in a local newspaper (§401(7), M.C.L. 125.3401(7). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)
  The notice shall include (§401(9), M.C.L. 125.3401(9)):
  • Either:
    • a summary of the regulatory effect of the amendment, including the geographic area affected, or
    • the text of the amendment.
  • The effective date of the amendment.
  • The place where and the time when a copy of the ordinance or amendment may be purchased or inspected.                                                                 | Copy of the “notice of ordinance adoption” and affidavit of publication. Statement of effective date of the ordinance |
| □ Task is done         | **Step 15.** (Optional) A copy of the zoning amendment can be placed on file with the _____. The original ordinance should be updated, by incorporating the amendment into it. A copy of the updated zoning ordinance can be placed on file with _____. | The zoning amendment. The updated ordinance.                                                |
| □ Task is done         | **Step 15a. For villages and cities.** (With no charter referendum options) Go to step 16.                                                                                                                   | Copy of the “notice of intent.”                                                             |
| □ Task is done         | **Step 15a.** (Which may, or may not happen). For townships and counties. (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)
  Within seven days after the “notice of adoption” has been published (step 12a) a registered elector in the zoning jurisdiction may file with the clerk of the legislative body a “notice of intent” to file a petition to bring all, or part of, the zoning amendment to a vote. (§402(1), M.C.L. 125.3402(1)) |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td>Step 15b. For villages and cities. (With no charter referendum options)</td>
<td>Copy of petition, or documentation by the clerk saying the petition was not received within the 30 day period.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>Go to step 16.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Step 15b. (Which may, or may not happen). For townships and counties. (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Within 30 days of the ordinance adoption (step 12a) that elector can file the petition with the clerk of the legislative body to have the zoning amendment adoption (or a specified portion of the zoning amendment) placed on the ballot. The petition needs to be signed by 15 percent of the qualified and registered voters in the zoning jurisdiction of the total vote cast for all candidates for governor at the last preceding general election. (§402(2), M.C.L. 125.3402(2))</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>Step 15c. For villages and cities. (With no charter referendum options)</td>
<td>A copy of clerk’s determination on the petition.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td>Go to step 16.</td>
<td>Copy of election results.</td>
</tr>
<tr>
<td></td>
<td>Step 15c. (Which may, or may not happen). For townships and counties. (And a city or village where a charter provides for referendums, but according to the procedure specified in charter, not the procedure found here.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The clerk of the legislative body reviews the petition and determines that the petition is inadequate or is adequate (e.g. is/isn’t enough qualified signatures, drafted properly/improperly). If the petition is adequate, the legislative body sets the date for that election. (§402(3), M.C.L. 125.3402(3))</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td>Step 16. Once the ordinance has taken effect, the legislative body should act to do the following things: • Modify the policy or procedure for administration and enforcement of the ordinance, if required for the amendment (step 8). (The zoning administrator should update the inventory of existing buildings which are now nonconforming uses as a result of the zoning amendment (easiest way is through use of tax roll, or tax map air photos, to establish uses at the start of a new ordinance or amendment).</td>
<td>Copy of the minutes for the meeting where action was taken.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td></td>
<td>Copy of the updated policy or procedure.</td>
</tr>
</tbody>
</table>

NOTE:

COURT ORDERS. A zoning amendment for the purpose of conforming to a court order may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency.
Check List # 5
For Processing a Zoning Special Use Permit (including some PUDs) in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#5) is for administratively reviewing special use permits in Michigan. It is for Planned Unit Development (PUD) special use permits also. This checklist is designed to provide a list of steps – in order – leading to a well planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.), and recommendations of Kurt H. Schindler, MSU Extension land use team member. This version of the checklists includes to the Michigan Zoning Enabling Act through February 12, 2008 (P.A. 12 of 2008).

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in the box on page 2.

The Michigan Zoning Enabling Act is a new statute, that changes how various zoning procedures are done. The entire purpose of this act was to create a single set of procedures to follow regardless if zoning is being done in a city, village, township, or county. After July 1, 2006 (the effective date of the act) only the procedures in the Michigan Zoning Enabling Act should be used (and the following statutes must not be used any more). Even if local zoning has a different procedure, the procedures in the Michigan Zoning Enabling Act have to be used starting July 1, 2006.

Within a year (July 1, 2007) local zoning has to be amended to reflect the procedures in the Michigan Zoning Enabling Act. This act replaces the following statutes. Only for matters that took place before July 1, 2006 should the old statutes be referenced:

1. P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # C2; For Adoption of a County Zoning Ordinance in Michigan”.
2. P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # T2; For Adoption of a Township Zoning Ordinance in Michigan”.
3. P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with sample materials; coordinating efforts between

Author:
Kurt H. Schindler, REGIONAL LAND USE EDUCATOR, member MSU LAND USE TEAM
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindl9@msu.edu
overland mail: MSU Extension, Wexford County 401 N. Lake Street –Suite 400 Cadillac, Mich. 49601-1891

with review by:
• Mark A. Wyckoff, DIRECTOR PLANNING AND ZONING CENTER AT MSU
• Jason Ball, MSU GRADUATE STUDENT
• Lincoln Sweet, MSU GRADUATE STUDENT
the township, county, and the state; and providing
guidelines.

This outline is not designed as a substitute for
reading and understanding the Michigan Zoning
Enabling Act. This outline is not a substitute for
legal advice. There is no substitute for hiring an
attorney. Do not attempt to adopt or amend an
ordinance without an attorney.

It is important to document each step of the
process in planning and zoning a community. Keep
detailed minutes, affidavits of publication and
mailing, open meeting notices, letters of transmittal,
and communications all on file, so years from now
they are still available.

This checklist is divided into three columns.

Related Publications

There are also separate procedural checklists
for performing other planning and zoning functions.
They are:

- **Land Use Series:** "Check List #1A; To Create a
Planning Commission or Amend an Existing
Planning Commission Ordinance."
- **Land Use Series:** "#1B; Sample Ordinance to create
a planning commission"
- **Land Use Series:** "#1C; Summary of changes
between new Michigan Planning Enabling Act and
the three old planning acts: Municipal Planning Act,
County Planning Act, and Township Planning Act."
- **Land Use Series:** "Checklist #1D; Steps to
Transition an Existing Planning Commission to
Comply with the Michigan Planning Enabling Act"
- **Land Use Series:** "#1E; Sample Bylaws for a
planning commission."
- **Land Use Series:** "Checklist #1F; What Should be in
a Master Plan"
- **Land Use Series:** "Checklist #1G; For Adoption of a
Plan in Michigan"
- **Land Use Series:** "Checklist #1H; The Five Year
Plan Review.
- **Land Use Series:** "Checklist #11; For Adoption of an
Amendment to a Plan"
- **Land Use Series:** "Checklist #1J; Adopting and
Updating a Capital Improvement Program"
- **Land Use Series:** "Checklist #1K; Review of
Infrastructure and Public Capital Expenditure"
- **Land Use Series:** "Checklist #1L; Adoption or
Amendment of Subdivision Rules"
- **Land Use Series:** "#1M; How Governments Make
Submissions on a Neighbor’s or County’s Proposed
Plan"
- **Land Use Series:** "#1N; How a Planning
Commission Should Respond to Submissions"
- **Land Use Series:** "Checklist #2; for Adoption of a
Zoning Ordinance in Michigan."
- **Land Use Series:** "Checklist #3; for Adoption of an
Interim Zoning Ordinance in Michigan."
- **Land Use Series:** "Checklist #4; for Adoption of a
Zoning Ordinance Amendment (Including Pud) in
Michigan"
- **Land Use Series:** "Checklist #5; for Processing a
Special Use Permit (Including Pud) Application in
Michigan."
- **Land Use Series:** "Checklist #6; for Processing a
Zoning Appeal and Variance in Michigan."

All of these are available at www.msue.msu.edu/lu/.

---

**Glossary**

The following terms are used in this publication,
and have the following specific meanings.

- § means the section number of Public Act 110 of
2006, as amended, (being the Michigan Zoning Enabling
Act, M.C.L. 125.3101 et. seq.),
- **Chief administrative official** means the manager
or other highest nonelected administrative official of a
city or village.
- **Chief elected official** means the mayor of a city,
president of a village, supervisor of a township, or chair
of a county board of commissioners.
- **Ex officio member** means a member of a planning
commission, with full voting rights unless otherwise
specified by city or village charter, by virtue of holding
another office.
- **Legislative Body** means the county board of
commissioners of a county, the board of trustees of a
township, the council of a city or village, or other similar
duly elected representative body of a county, township,
city, or village.
- **Local Unit of Government** means a county,
township, city, or village.
- **Municipality** means a city, village or township.
- **Plan** means any plan adopted under the Michigan
Planning Enabling Act or one of the three former
planning acts, regardless of what it is titled.
- **Planning Commission** means the local unit of
government planning commission created under the
Michigan Planning Enabling Act or one of the three
former planning acts, regardless of what it is titled. In a
few communities it may still be a “zoning board”
(townships) or “zoning commission” (city and villages).

Has used here, the use of the term “planning
commission” includes all of these terms.
- **Zoning jurisdiction** means the area encompassed
by one of the following:
  - legal boundaries of a city or village for a city or
    village respectively;
  - legal boundaries of a township outside the limits of a
    city(ies) and village(s) for a township;
  - legal boundaries of a county outside the limits of a
    city(ies) and village(s); or the county including any
    city(ies) and village(s) which has adopted the county
    plan (See §209, M.C.L. 125.3209).
The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 1. (Optional) A pre-application conference before submitting an application may be provided for in the zoning ordinance.</td>
<td>Notes on the pre-application conference.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 2. An application for a special use permit is received, usually by the zoning administrator.</td>
<td>The application.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 3. The zoning administrator (usually) reviews the application to determine if the application is complete. (Actual requirements and standards for approving a request for a special use permit shall be specified in the zoning ordinance (§502(1)(c); M.C.L. 125.3502(1)(c)).) A special use permit application may include a site plan. The site plan can be reviewed concurrently with the special use permit application, or it can be reviewed after the initial approval of a site plan, as shown in this checklist. It is possible for other procedures to also be used.</td>
<td>The zoning administrator’s review for completeness. The site plan, if applicable.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 4. The zoning administrator verifies the specified special use is listed in the zoning ordinance as eligible for approval in that zoning district (§502(1)(a); M.C.L. 125.3502(1)(a)). If the application is complete, a time when the special use permit will be considered is scheduled, and the administrator prepares a staff report on the special use permit application. If the application is not complete, the application is returned to the applicant with a list of deficiencies. (Actual requirements and standards for approving a request for a special use permit shall be specified in the zoning ordinance (§502(1)(c); M.C.L. 125.3502(1)(c)). See also §504, M.C.L. 125.3504.)</td>
<td>Finding the application is complete. Copy of list of deficiencies. The staff report.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Task is done</td>
<td>Step 5. Notices concerning the special use permit are prepared.</td>
<td></td>
</tr>
</tbody>
</table>
Check List # 5 For Processing a Zoning Special Use Permit (including some PUDs) in Michigan

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td><strong>Step 6a.</strong> The notice shall include the following information:</td>
<td>Copy of notices of hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to.</td>
</tr>
<tr>
<td>□ In the file</td>
<td><strong>G</strong> Task is done</td>
<td><strong>G</strong> In the file</td>
</tr>
<tr>
<td></td>
<td><strong>Step 6b. If a public hearing is to be held and for PUD:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Go to step 7.</strong></td>
<td>ditto The request for the hearing.</td>
</tr>
<tr>
<td></td>
<td><strong>Step 6b. If a public hearing is not held:</strong> (Note: A hearing on a PUD must be held (§503(5), M.C.L. 125.3503(5))) In addition to the material in step 6a, the notice shall:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The notice shall also indicate that a public hearing on the special use permit may be requested by any property owner or occupant of any structure located within 300 feet of the property being considered for the special use. (§502(2), M.C.L. 125.3502(2)) If a public hearing is to be held, as a result of such a request, go back to step 5.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>The statement of when and where the issue will be considered</strong> (§103(4)(c), M.C.L. 125.3103(4)(c) (in step 6a) shall announce when and where the hearing will be held.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Step 6b.</strong> If a public hearing is to be held and for PUD:**</td>
<td></td>
</tr>
<tr>
<td>Master check list</td>
<td><strong>Go to step 7.</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Check List # 5 For Processing a Zoning Special Use Permit (including some PUDs) in Michigan</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Michigan State University Extension Land Use Series</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Page 4 of 8</strong></td>
<td><strong>May 1, 2008</strong></td>
</tr>
<tr>
<td>Check when task is done</td>
<td>Step, or Task</td>
<td>Copy in the permanent file</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 6c. If a public hearing is to be held and for PUD:</strong> Go to step 7.</td>
<td>The decision to hold the hearing (minutes or report)</td>
</tr>
<tr>
<td>☐ In the file</td>
<td><strong>Step 6c. If a public hearing is not held:</strong> (Note: A hearing on a PUD must be held (§503(5), M.C.L. 125.3503(5))) The body or official who decides, or recommends action on the special use permit may, at its own initiative, decide to hold a public hearing. (§502(3), M.C.L. 125.3502(3)) If a public hearing is to be held, go back to step 5.</td>
<td></td>
</tr>
</tbody>
</table>

| ☐ Task is done          | **Step 7. A public hearing is held.** Minutes of public hearing |
| ☐ In the file           | Minutes or written report. |

| ☐ Task is done          | **Step 8a. After the hearing the body or official who decides, or recommends action on the special use permit deliberates on the proposed special use permit. The deliberation is based on standards for considering special uses (§502(1)(b), M.C.L. 125.3502(1)(b)). Those standards are often found in four places in the zoning ordinance:** • The section of the ordinance on special uses, where there is often found general standards which apply to all special uses; • The same section of the ordinance on special uses (or a section specifically for this purpose) where standards which are specific for specified special uses are found; • General provisions of the zoning ordinance (including sections on signs, parking, major new developments, etc.); and • The requirements for the zoning district where the special use permit is proposed (parcel size, setbacks, etc.). The focus of the deliberation should be to review each standard and determine if the proposed special use meets that standard or not. (If it does not, then the question becomes, “are there conditions which can be imposed on the special use which result in the project meeting the standard?” There are other purposes for requiring conditions. See §504(4), M.C.L. 125.3504(4).) If each standard is found to be met, then the special use permit shall be approved. |
| ☐ In the file           | **Step 8b. When the planning commission or zoning administrator acts on the special use permit.** (Note: the zoning ordinance shall specify who reviews and approves special use permits (§502(1), M.C.L. 125.3502(1))). Then the: • ☐ Planning Commission • ☐ Zoning Administrator [check which one your zoning ordinance specifies] Makes a motion: |

| ☐ Task is done          | Minutes of the commission meeting which contains this motion. OR Written report/ruling by the zoning administrator |
| ☐ In the file           | **Step 8b. When the legislative body acts on the special use permit.** (Note: the zoning ordinance shall specify who reviews and approves special use permits (§502(1), M.C.L. 125.3502(1))). Then the: • ☐ Planning Commission • ☐ Zoning Administrator [check which one your zoning ordinance specifies] Prepares a recommendation for the legislative body in the form of a motion: |

---

*Check List #5 For Processing a Zoning Special Use Permit (including some PUDs) in Michigan*

*Michigan State University Extension Land Use Series*

*Page 5 of 8*

*May 1, 2008*
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| □ Task is done         | **Step 8c.** The motion, or minutes of the meeting where the case was decided shall include:  
                          • The decision (to approve, not approve, approve with conditions);  
                          • Reasons (conclusions) for the decision;  
                          • A findings of fact upon which the reasons are based;  
                          • (optional) conditions of approval.  
                          ([§502(4), M.C.L. 125.3502(4)])  
                          (NOTE: If all standards are met in the zoning ordinance for the special use, the special use shall be approved ([§504(2), M.C.L. 125.3504(2)]).)  
                          (NOTE: In the case of a PUD, approval may be granted on each phase of a multi-phased PUD ([§503(9), M.C.L. 125.3503(9)].)) | Minutes of the commission meeting which contains this motion.  
                          **OR**  
                          Written report/ruling by the zoning administrator |
| □ In the file           | **Step 8d. When the planning commission or zoning administrator acts on the special use permit.**  
                          Go to step 9. | Legislative body minutes. |
| □ Task is done         | **Step 8d. When the legislative body acts on the special use permit.**  
                          The legislative body takes up the issue at its meeting, and acts on the case. The motion, or minutes of the meeting where the case was decided shall include:  
                          • The decision (to approve, not approve, approve with conditions);  
                          • Reasons for the decision;  
                          • A findings of fact upon which the reasons are based;  
                          • (optional) conditions of approval.  
                          (NOTE: If all standards are met in the zoning ordinance for the special use, the special use shall be approved ([§504(2), M.C.L. 125.3504(2)]).)  
                          (NOTE: In the case of a PUD, approval may be granted on each phase of a multi-phased PUD ([§503(9), M.C.L. 125.3503(9)].)) | |
| □ In the file           | **Step 9a. If the site plan review is handled concurrently with the special use permit or a site plan is not required.**  
                          Go to step 10. | |
| □ Task is done         | **Step 9a. If the site plan review is handled separately from the initial review of a special use permit.**  
                          In addition to the material in step 8d or 8c, one of the conditions of approval shall include:  
                          • The subsequent approval of the site plan for the special use. | |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Task is done</td>
<td>Step 9b. If the site plan review is handled concurrently with the special use permit or a site plan is not required. Go to step 10.</td>
<td>The site plan copies of finding the site plan is complete or a list of deficiencies.</td>
</tr>
<tr>
<td>□ In the file</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| □ Task is done         | Step 9b. If the site plan review is handled separately from the initial review of a special use permit. The site plan is submitted. The zoning administrator reviews to make sure the site plan is complete. If complete, a review of the site plan is scheduled. If not complete, it is sent back to the applicant with a list of deficiencies. |                           |
| □ In the file          |                                                                                |                           |

| □ Task is done         | Step 9c. If the site plan review is handled concurrently with the special use permit or a site plan is not required. Go to step 10. | Minutes OR Official’s report. |
| □ In the file          |                                                                                |                           |

| □ Task is done         | Step 9c. If the site plan review is handled separately from the initial review of a special use permit. The body or official who decides, or recommends action on the site plan reviews it. The review is based on standards for considering site plans (§501(3), M.C.L. 125.3501(3)). Those standards are often found in four places in the zoning ordinance:  
- The section of the ordinance on special uses, where there is often found general standards which apply to all special uses;  
- The same section of the ordinance on special uses (or a section specifically for this purpose) where standards which are specific for specified special uses are found;  
- General provisions of the zoning ordinance (including sections on signs, parking, major new developments, etc.); and  
- The requirements for the zoning district where the special use permit is proposed (parcel size, setbacks, etc.). The focus of the deliberation should be to review each standard and determine if the proposed special use meets that standard or not. (If it does not then the question becomes: are conditions which can be imposed on the special use which result in the project meeting the standard? There are other purposes for requiring conditions. See §504(4), M.C.L. 125.3504(4).) If each standard is found to be met, then the special use permit shall be approved. |                           |
| □ In the file          |                                                                                |                           |
Task is done

Step 9d. If the site plan review is handled concurrently with the special use permit or a site plan is not required.

Go to step 10.

Then the:
- Planning Commission
- Zoning Administrator

[check which one your zoning ordinance specifies]

Makes a motion:

(Note: the zoning ordinance shall specify who reviews and approves special use permits \((\S 501(1), \text{M.C.L. 125.3501(1)})\).)

Task is done

In the file

Step 9e. If the site plan review is handled concurrently with the special use permit or a site plan is not required.

Go to step 10.

The motion, or minutes of the meeting where the site plan was decided shall include:
- The decision (to approve, not approve, approve with conditions);
- Reasons (conclusions) for the decision;
- A finding of fact upon which the reasons are based;
- (optional) conditions of approval. \((\S 502(4), \text{M.C.L. 125.3502(4)})\)

(Note: If all standards are met in the zoning ordinance for the special use, the special use shall be approved \((\S 501(4), \text{M.C.L. 125.3501(4)})\).) \(\text{(NOTE: In the case of a PUD, approval may be granted on each phase of a multi-phased PUD \((\S 503(9), \text{M.C.L. 125.3503(9)})\).)\)

Minutes of the commission meeting which contains this motion.

OR

Written report/ruling by the zoning administrator

Task is done

In the file

Step 10. If the special use permit is approved, arrangements should be made for a performance guarantee (cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government) which covers the estimated costs of the required improvements for the special use.

The performance guarantee is deposited with the clerk of the legislative body.

There shall be procedures for rebate of any cash deposits in proportion to the ratio of work completed. \((\S 505(1), \text{M.C.L. 125.3505(1)})\)

Copy of performance guarantee, or record of deposit.

Task is done

In the file

Step 11. Issue the special use permit.

The special use permit.
Check List # 6
For Processing a Zoning Appeal and Variance in Michigan

This is a step-by-step procedure for planning, land use and zoning. This particular checklist (#6) is for administratively reviewing appeals and variances in Michigan. This checklist is designed to provide a list of steps – in order – leading to a well planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), and recommendations of Kurt H. Schindler, MSU Extension land use team member. This version of the checklists includes to the Michigan Zoning Enabling Act through February 12, 2008 (P.A. 12 of 2008).

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in the box on page 2.

The Michigan Zoning Enabling Act is a new statute, that changes how various zoning procedures are done. The entire purpose of this act was to create a single set of procedures to follow regardless if zoning is being done in a city, village, township, or county. After July 1, 2006 (the effective date of the act) only the procedures in the Michigan Zoning Enabling Act should be used (and the following statutes must not be used any more). Even if local zoning has a different procedure, the procedures in the Michigan Zoning Enabling Act have to be used starting July 1, 2006.

Within a year (July 1, 2007) local zoning has to be amended to reflect the procedures in the Michigan Zoning Enabling Act. This act replaces the following statutes. Only for matters that took place before July 1, 2006 should the old statutes be referenced:

- P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # C2; For Adoption of a County Zoning Ordinance in Michigan”.
- P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # T2; For Adoption of a Township Zoning Ordinance in Michigan”.
- P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) See MSU Extension Land Use Team’s Land Use Series “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with
sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

This outline is not designed as a substitute for reading and understanding the Michigan Zoning Enabling Act. This outline is not a substitute for legal advice. There is no substitute for hiring an attorney. Do not attempt to adopt or amend an ordinance without an attorney.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file, so years from now they are still available.

### Related Publications

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- **Land Use Series:** "Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance."
- **Land Use Series:** "#1B; Sample Ordinance to create a planning commission"
- **Land Use Series:** "#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act."
- **Land Use Series:** "Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act"
- **Land Use Series:** "#1E; Sample Bylaws for a planning commission."
- **Land Use Series:** "Checklist #1F; What Should be in a Master Plan"
- **Land Use Series:** "Checklist #1G; For Adoption of a Plan in Michigan"
- **Land Use Series:** "Checklist #1H; The Five Year Plan Review"
- **Land Use Series:** "Checklist #1I; For Adoption of an Amendment to a Plan"
- **Land Use Series:** "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- **Land Use Series:** "Checklist #1K; Review of Infrastructure and Public Capital Expenditure"
- **Land Use Series:** "Checklist #1L; Adoption of Amendment of Subdivision Rules"
- **Land Use Series:** "#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan"
- **Land Use Series:** "#1N; How a Planning Commission Should Respond to Submissions"
- **Land Use Series:** "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- **Land Use Series:** "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- **Land Use Series:** "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including Pud) in Michigan"
- **Land Use Series:** "Checklist #5; for Processing a Special Use Permit (Including Pud) Application in Michigan."
- **Land Use Series:** "Checklist #6; for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at www.msue.msu.edu/lu/.

### Glossary

The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.),

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.

Local Unit of Government means a county, township, city, or village.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled. In a few communities it may still be a “zoning board” (townships) or “zoning commission” (city and villages). Has used here, the use of the term “planning commission” includes all of these terms.

Zoning jurisdiction means the area encompassed by one of the following:

- legal boundaries of a city or village for a city or village respectively;
- legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
- legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §209, M.C.L. 125.3209).
This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete in order to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
</table>
| ☐ Task is done          | □ Step 1. A demand for a zoning appeal is received, usually by the zoning administrator (but can be whomever the appeals board’s general rules specify (§604(2), M.C.L. 125.3604(2))).
  Appeals can be filed by (§604(1), M.C.L. 125.3604(1)):
  1. a person aggrieved, or
  2. an officer, department, board, or bureau of the state or local unit of government. | The demand for appeal. |
| ☐ In the file           |              |                            |
| ☐ Task is done          | □ Step 2. The zoning administrator (usually) reviews the demand for appeal to determine if it is complete:
  If the demand for appeal is complete, a time when the case is to be heard is scheduled, and the administrator prepares a staff report on the demand for appeal/variance.
  If the demand for appeal is not complete, it is returned to the applicant with a list of what is deficient. | The zoning administrator’s review for completeness. |
| ☐ In the file           |              | Finding the demand for appeal is complete. |
| ☐ Task is done          | □ Step 3. The zoning administrator verifies what is sought is within the jurisdiction of the appeals board (§603(1), M.C.L. 125.3603):
  3. Dimensional variance
  4. Use variance
  5. Zoning Ordinance text interpretation
  6. Zoning map interpretation
  7. Appeal of an administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement.
  8. Appeal of a special use/PUD permit (if specifically permitted by the zoning ordinance: §________.)
  9. Other: ____________________; (if specifically authorized by the zoning ordinance: §______.) | Finding the demand for appeal is within the appeals board jurisdiction. |
| ☐ In the file           |              |                            |
Step 4. The appeals board shall fix a reasonable time for a hearing of the appeal and the appeals board or zoning administrator prepares notices concerning the appeal (variance). (§604(5), M.C.L. 125.3604(5))

Step 5a. The notice shall include the following information:

- Describe the nature of the request (§103(4), M.C.L. 125.3103(4)).
- Indicate the property(ies) which is(are) subject of the hearing (§103(4)(b), M.C.L. 125.3103(4)(b)).
- If the appeal involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then a listing of all existing street addresses within the property(ies) which is(are) subject of the appeal. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used (§103(4)(b), M.C.L. 125.3103(4)(b)).
- A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)).
- An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)).

The notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:

- Given to the person filing the appeal.
- Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)

If the appeal does not involve a specific parcel of property, notice only has to be published in a newspaper of general circulation in the local unit of government and person filing the appeal.

- If the special use application involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to owners of property(ies) for the land which is the subject of the notice/hearing/special use application (§103(2), M.C.L. 125.3103(2)).
- If the special use application involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is the subject of the notice/hearing/special use application regardless of whether the owner and property are located in the zoning jurisdiction or not. (§103(2), M.C.L. 125.3103(2))
- If the special use application involves less than 11 adjacent properties (§202(3), M.C.L. 125.3202(3)), then send the notice by mail or personal delivery to one person occupying each structure, unit or spatial area within 300 feet of the property(ies) which is the subject of the notice/hearing/special use application regardless of whether the structure and occupant are located in the zoning jurisdiction or not. If a structure contains more than four dwelling units, notice shall only be sent to the manager to be posted near the main entrance. (§103(2), M.C.L. 125.3103(2))

See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3).

Step 5b. Appeal is for a dimensional variance or use variance.

Go to step 6.

Step 5b. Appeal is seeking an interpretation of the zoning ordinance (text or map) or an appeal of an administrative decision.

In addition to whom the notices are sent to (step 5a) the notice shall also be sent to:

- the person requesting the interpretation (§604(5), M.C.L. 125.3604(5)).

ditto
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task is done</td>
<td>Step 6. The appeal stays all proceedings in furtherance of the action agreed, unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals that by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer, cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the zoning board of appeals or a circuit court. (§604(3), M.C.L. 125.3604(3))</td>
<td>The certificate. Appeals Board minutes. Restraining order.</td>
</tr>
<tr>
<td>In the file</td>
<td>Step 7. An appeals hearing is held. A party may appear in person, by agent, or attorney. (§604(6), M.C.L. 125.3604(6))</td>
<td>Minutes of the appeals hearing</td>
</tr>
<tr>
<td>Task is done</td>
<td>Step 8. After the hearing the appeals board deliberates on the case. Such deliberation should be based on the following standards. The standards to base a decision concerning a dimensional variance (non-use variance) are “practical difficulties” (§604(7), M.C.L. 125.3604(7)). These are court-established standards that must be followed. See Part II “Sample checklist to guide decisions on Dimensional Variances” in Michigan Zoning Guidebook: for Citizens and Local Officials. Additional standards may be in the zoning ordinance (§604(7), M.C.L. 125.3604(7)). The standards to base a decision concerning a use variance are “unnecessary hardship” (§604(7), M.C.L. 125.3604(7)). These are court-established standards that must be followed. See Part II “Sample checklist to guide decisions on Use Variances” in Michigan Zoning Guidebook: for Citizens and Local Officials. Additional standards may be in the zoning ordinance (§604(7), M.C.L. 125.3604(7)). Standards for ordinance interpretation are not so formal. For one set of sample standards see Part II “Sample Checklist to Guide Decisions on Ordinance Interpretation” in Michigan Zoning Guidebook: for Citizens and Local Officials.</td>
<td>Minutes of the appeals board Copy(ies) of any check lists used.</td>
</tr>
</tbody>
</table>
| In the file            | Step 9. The motion, or minutes of the meeting where the case was decided shall include:  
  • The decision (the appeals board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit (§604(6), M.C.L. 125.3604(6)); for variances the appeals board may grant a variance relating to the construction, structural changes in, equipment, or alternation of buildings or structures, or the use of land, buildings, or structures; so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done (§604(7), M.C.L. 125.3604(7)));  
  • Reasons (conclusions) for the decision;  
  • A findings of fact upon which the reasons are based;  
  • (optional) conditions of approval (§604(7), M.C.L. 125.3604(7)). | Minutes of the appeals board meeting which contains this motion. |
<table>
<thead>
<tr>
<th>Check when task is done</th>
<th>Step, or Task</th>
<th>Copy in the permanent file</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 10. Vote on a Use Variance.</strong> To grant a use variance, there shall be a concurring vote of % of the members of the appeals board. The zoning ordinance shall specify if and when use variances can be granted ([§604(7), M.C.L. 125.3604(7)]). (The authority to grant use variances is limited to: • cities and villages; • townships and counties that, as of February 15, 2006, had a zoning ordinance provision that expressly authorized granting use variances (e.g., uses the phrase “use variance” or “variances from uses of land”); or • townships and counties that actually granted a use variance(s) before February 15, 2006. Any local unit of government (including cities and villages) may choose to not issue use variances.) ([§604(8)-604(9), M.C.L. 125.3604(8)-125.3604(9)].)</td>
<td>Minutes showing the vote, and quorum present, or at least % present.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td><strong>Step 10. Vote on all other Appeals Board Actions.</strong> To reverse an administrative decision, make an interpretation, or grant a nonuse variance there shall be the concurring vote of a majority of the members of the appeals board. ([§603(2), M.C.L. 125.3603(2)]).</td>
<td></td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 11. If a variance is approved with conditions, arrangements should be made for a performance guarantee (cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government) which covers the estimated costs of the required improvements for the special use.</strong> The performance guarantee is deposited with the clerk of the legislative body. There shall be procedures for rebate of any cash deposits in proportion to the ratio of work completed. ([§505(1), M.C.L. 125.3505(1)]).</td>
<td>Copy of performance guarantee, or record of deposit.</td>
</tr>
<tr>
<td>☐ In the file</td>
<td><strong>Step 12. The appeals board’s decision is final.</strong> The decision shall be in writing and shall be: • certified; or • reflected in its approved minutes.</td>
<td>Certified written decision, OR Approved minutes.</td>
</tr>
<tr>
<td>☐ Task is done</td>
<td><strong>Step 13. Within 30 days of the appeals board’s decision (certified in writing or in an approved copy of its minutes, step 11) it may be appealed by any aggrieved party to circuit court for the county in which the property is located ([§606(1), M.C.L. 125.3606(1)]).</strong> The circuit court’s decision may be further appealed to the court of appeals ([§606(3), M.C.L. 125.3606(3)]).</td>
<td></td>
</tr>
</tbody>
</table>

[September 16, 2008; Wexford MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\BullItemMSUE Wexford\pamphlet\zoneAppealsChecklist.wpd]
A Behavioral Approach to Avoid Regulatory Takings

How to Get in Trouble with Takings

A community may get in trouble with regulatory takings in three basic ways.

First: Greed (Exactions)

A municipality can get in trouble with regulatory takings when it is greedy—when it wants something from a developer, such as a road, park, drain, bike path or new fire truck. The municipality gets in trouble when it wants more from the developer than the impacts from the particular project justify asking for.

For example, a developer wishes to develop six parcels along a lakefront road. The community tells the developer she must build a water line from the west to go along the front of the lots. The developer is also told she must extend the water line out to the east to complete a loop for improved water pressure. She is then told to extend the line east to west along the other side of the block to provide new service to properties on the other side of the block. Some of the above requests are reasonable. Others present a serious problem of regulatory takings.

Asking for improvements is OK if:

• The improvements demanded are necessary to serve the development or are reasonably related to the direct impacts created by the development. This is called *nexus*. The required improvements have a *nexus* with the impact of the project.

Authors:

Joseph F. Galvin, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
Phone: (313)496-8440
150 W. Jefferson Ave., Suite 2500
Detroit, MI 48226

Kurt H. Schindler, County Extension Director
MSU Extension, Wexford County
MSU Extension Land Use Team
Phone: (231)779-9480
E-mail: schindl9@msu.edu
401 N. Lake St.
Cadillac, MI 49601-1801

The authors wish to thank Carol A. Rosati (Johnson, Rosati, Labarge, Asetlyne & Field of Farmington Hills) for her assistance in preparation of materials for this bulletin.
• The improvements are internal to the project. Extensive off-site improvements are usually not justifiable.1

Application of nexus:
• When the demanded improvements are required solely to serve the development, nexus exists. Requiring that the water line be extended from the west to go along the front of the six parcels has the required nexus. This extension is needed solely to provide water service to the six parcels the developer wants to sell.
• When the demanded improvements do not solely serve the development but are still a benefit to the development and the cost of paying for them is roughly proportional to the benefit, nexus might exist for some or all of the costs. For example, the requirement to extend the water line out to the east to complete the loop for improved water pressure would benefit land outside the development. The six parcels benefit, but so do others. The benefit may or may not be disproportionate to the costs of the loop. The community should conduct an analysis of the project and the improvements to measure the impacts of the project, the benefit to the developer, the benefit to the community, and the cost (whether it is roughly proportional to the benefit). Once this information is known, then the community and the developer can allocate a sharing of the costs based on relative benefit (“rough proportionality”).
• When the demanded improvements do not have any relationship to the project, there is no nexus. For example, the requirement to connect both the west and east extensions of the water line along the other side of the block to provide service to the adjacent block gives no benefit to the developer. The community or the benefitted landowners should pay for this part of the project.

Nothing is wrong with wanting and asking for something. A municipality can ask for reasonable improvements – as long as they are related to the impact of the development, and the developer’s cost is proportionate to the benefit to or burden imposed by the development.

The municipality will get in trouble if it tries to make an applicant pay for improvements with no relationship to the development or pay more than the “roughly proportional” impact on (or benefit to)

---

1 Arrowhead v. Livingston County Road Commission, 92 Mich. App. 31 (1979)
users would pay for the remainder of the improvement.

The municipality can avoid regulatory takings by making sure the municipality negotiates for improvements and pays its fair share for them. Regulatory takings claims are avoided by requiring payment for only those improvements that are essential and internal to the development project.

Second: Dumb Stuff, NIMBY
(Regulatory Takings)

A municipality can get in trouble with regulatory takings when it allows the “not in my back yard” (NIMBY) mentality to rule the day. This is when a municipality does not want something that a developer is proposing even though the project complies with the governing rules. The municipality somehow still figures out a way to say “no.”

For example, an applicant comes in asking to develop an 800-unit housing project on land in a zoning district that allows multiple uses with a density of 1,000 units, but the municipality does not want the project and says “no” to the development.

The process of saying, “Yes, it is zoned that way, but we do not want it,” can take a number of forms:

- Improving that if the size of the development were reduced, the community would approve the project. The applicant comes back with a 600-unit development, and the municipality again says “no.”
- Seeking and looking for minor technical excuses to delay or reject the proposal—e.g. “your site plan does not have a red seal as required by §9406.B.1.(f)(i)(l)(a)x=mc^2 of the zoning ordinance.”
- Repeatedly tabling a decision on the application. Once an application is received, the municipality has a duty to proceed in good faith to process it and either approve, approve with modification or deny it. Not only is there the duty to act promptly, but delaying tactics will make the municipality look bad in court. Foot-dragging gives the developer a clear opportunity to make the government look bad.

- Creating delays while working to amend the zoning.

In these situations the municipality is failing to follow due process.

Every time a community says “no” to a plan or proposal that meets the requirements of the ordinances, it is taking the land or committing some other constitutional tort. It will lose in court, the developer will win with her project, and the community will pay for the delay.

If a municipality really does not want particular land to be developed in accordance with existing local ordinances, it has two lawful choices:
1. Buy the land.
2. Downzone the area (amend your zoning ordinance) before an application is filed to develop it.

So long as downzoning leaves some economically viable use of the land, it will withstand legal challenge. If the downzoning comes after the

---

**Regulatory Takings**

In 1992, in *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003; 120 L. Ed. 2d 798 (1992), the U.S. Supreme Court refined the rules applicable to regulatory takings. The court initially noted that its previous cases had never adopted any set formula for determining how far is too far, preferring instead to “engage[ing] in ... essentially ad hoc factual inquiries (120 L. Ed. 2d at 812).” The court then stated that two categories do not require ad hoc factual investigation. First, a regulation that compels a property owner to submit to a physical invasion of property requires immediate payment of compensation *-Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419; 73 L.Ed. 2d 868 (1982). Second, where the regulation denies all economically beneficial or productive use of land, compensation must be paid. Cases that involve regulations that fail to advance substantially any legitimate state interest and regulations that interfere with distinct investment-backed expectations can constitute takings but do require a factual inquiry into whether the regulations are justifiable on the basis of the public interest that supports them.

The Michigan Supreme Court’s decision in *K&K Constructions, Inc. V. Department of Natural Resources*, 456 Mich. 570; 575 N.W. 2d 535 (1998), sets forth a non-segmentation principle for determining what parcel of the owner’s land should be considered for purposes of a takings analysis. In determining the denominator parcel, if the land is divided into parcels, a court will evaluate the contiguity of parcels, dates of acquisition, extent that the land is considered a unified parcel, and the extent to which the taken land benefits the value of the adjoining land.
application is filed, the developer may end up using the land and recovering damages. If the community really wants the land to remain undeveloped, the best way to assure that is to buy the land.

Third: Mob Rule or The Government Crumbles (Due Process Violation)

A municipality can get in trouble with takings when it ignores the Al Haig syndrome: “I’m in charge here.” This happens when a municipal meeting is run by those in the audience, mob rule or mobocracy, or when the attitude “we live here and you do not” prevails.

When the planning commission is reviewing a developer’s application, it is important to remember that the planning commission, not the audience, has the legal responsibility to make the decision. Asking for and following a show of hands or allowing a meeting to be run by those in the audience is improper. Planning and zoning decisions are to be based on findings of fact, application of applicable law to those facts, and the rationale for the decision and applicable conditions to it. Such decisions should not be based on popular opinion. This is why planning and zoning issues should be handled by a separate entity with access to expert advice (planning commission, zoning board, appeals board) and not by a show of hands.

The municipality does not have the option of abdicating its responsibility to do its job. Therefore, when reviewing a developer’s proposal, it must take particular care to do the following:

- Avoid discrimination.
- Make the legally correct decision, which means making a findings of fact, legal conclusions based on those facts, and formal statements of the action and conditions.
- Remember who is really in charge and who must make the decisions (the administrative body that has been delegated the task).

Giving in to the attitude “we live here and you do not” immediately deprives the developer of fair hearing and will lead to regulatory takings and other civil rights violations.

Another way the municipality can get itself in trouble with due process is for one of the members of the planning commission or board of appeals to fail to disclose he/she has a conflict of interest, and fail to remove him/herself from voting, debate and discussion on the issue. When a conflict of interest occurs, the individual should publicly disclose that fact, physically leave the meeting table, and not participate in the debate or discussion, make motions or vote on the matter.

How to Avoid Problems With Takings Judgments

The most effective way to avoid takings is not to regulate at all, but this is impossible in most communities.
The next most effective way is to know what you are supposed to be doing, how to do it and how to keep proper records of what you did. First, read your ordinances so you understand them. Second, budget for and attend formal training more than once a year. Training is available from the Michigan Association of Planning, the Michigan Municipal League and the Michigan Townships Association.

Third, subscribe to planning and zoning publications to keep up-to-date: Planning and Zoning News, Michigan Planner (through membership with Michigan Association of Planning), MSU Extension Bulletins (formal and informal), and Planning (through membership with American Planning Association [APA]).

When you find yourself in a situation where you see greed, dumb stuff or mob rule appearing, use the following approaches:

Greed:
When You Want Something

When your community is interested in getting something from a developer (e.g., building water lines), the first thing to do is forget what the municipality wants. Figure out what the developer wants, besides getting the project approved and making money. But some developers also want a good name, a good reputation, to be seen publicly as a benefactor of the community. Base your negotiation with the developer on your analysis of what that particular developer is looking for.

Next, analyze the developer’s project. Determine what the real impacts of the development are on the community and what the costs are to mitigate those impacts. Second, list the conditions that would need to be met to be able to pay for that mitigation, the reasons why those conditions are necessary, and the conclusions about why the developer should pay for all (or a portion) of the mitigation. Keeping these lists in the record (minutes and attachments) is a community’s best defense. The record should include:

- A finding of facts.
- Reasons for the action, based on the facts.
- A formal statement of the action—the conditions that must be met.

Creating and keeping minutes with those details are not only very important for defending the community in court, but also the most effective way to discourage someone from bringing a lawsuit in the first place.

Last, when the community wants something that is unrelated to the impact of the development, say so up front, then request it, do not require it. Negotiate to get it, and you might be surprised with the result.

Dumb Stuff:
When You Do Not Want Something

If a municipality is about to say “no” to a proposed development, it should ask itself if it can defend its “no” answer. If not, it should take a different tack. When you find yourself saying an outright flat “no” to a site plan, special use permit or planned unit development request, you are looking for trouble. Figure out what the municipality can live with and work toward that, rather than saying an absolute “no.”
If a set of defensible reasons exists for saying “no,” it is important to state those reasons in the record. The analysis in the record should include:

- Specific finding of facts and conclusions of law.
- A formal statement of the negative action.
- Reasons for the action based on the facts and conclusions with a statement explaining why they cannot be overcome.

Always provide the developer an opportunity to negotiate or change his/her proposal to try to mitigate the negative impacts of the development, if that is possible.

Remember, if the community is going to deny a project, state the real reasons for doing so. There are legal limitations on the community’s authority to deny a project. The real reasons for denial must conform to those limitations.

Steps to Avoid Liability in Planning and Zoning Decisions
1. Periodically update your master plan and zoning ordinance, and base the zoning ordinance on the master plan.
2. Periodically review and update your zoning ordinance and all other ordinances to ensure they comply with current case law. A plan or zoning ordinance should be updated when:
   a. Something happens that had not been anticipated.
   b. The municipality was sued and lost.
   c. The municipality’s attorney, planner or a judge says to do so.
   d. The other (zoning or plan) is updated.
   e. At least every five ± years.
3. Seek the opinion and advice of your municipal attorney. This is especially true when the landowner or developer appears with his or her legal counsel.
4. Do not react to public sentiment. Decisions based on political pressure or motivation, or personal motivations, are difficult to support. Although neighbors may object to proposed developments, try to base your decisions on the real issues and the facts presented.
5. Support your decision by fully articulating your reasons on the record. Keep detailed minutes of information presented during the public meetings. The basis of the decision must be found in the official record.
6. Train yourself and others who make land use decisions. The persons who sit on administrative boards are lay people who volunteer their time to the community. Help them properly perform their duties by training them.
7. Train the municipal staff. Make them aware of potential liabilities in land use litigation. Develop policies for handling of, review of and recommendations on land use requests.
8. Watch for conflicts of interest, and when they occur, do not conceal them. Remove any decision makers involved in a conflict of interest from all debate, discussion and voting on the issue.

**The Federal Civil Rights Act, 42 USC § 1983**

To state a claim under the Civil Rights Act, 42 USC § 1983, two elements must be shown: the conduct complained of must have been carried out under color of state law, and the conduct must have deprived the plaintiff of right, privilege or claim for a taking of property, denial of due process, or denial of equal protection. These claims may be asserted through the procedural mechanisms of the Civil Rights Act.

The Civil Rights Act is the proper procedural mechanism for setting forth a claim under the U.S. constitution and for securing damages when regulation results in undue interference with the use of land (Lake County Estates, Inc. v. Tahoe Regional Planning Agency, 440 U.S. 391 [1979]).

Actual attorney fees can be awardable to the “prevailing party” (42 USC § 1988).

Before the Civil Rights Act can be invoked, a property interest must be involved (Warth v. Seldin, 442 U.S. 490 [1975]). State law determines what is a “property interest” under 42 USC § 1983.

To assert any federal claim, there must be a federally protected property interest. This means the plaintiff must show a legitimate claim of entitlement or a justifiable expectation interest in what is sought. There is a right to a jury trial for a Civil Rights Act claim based upon a regulatory taking (City of Monterey v. Del Monte Dunes, 526 U.S. 687; 119 S.Ct. 1624; 143 L.Ed. 2d. 882 [1999]).

**Mob Rule:**

Forgetting Who Is In Charge

Legal and planning principles should guide the decision-making process. Decisions should be made only by the public body with the authority to act. Rules should be applied evenhandedly. Do not let the mob overwhelm your better judgment.
Better Designs for Development in Michigan

Putting Conservation into Local Land Use Regulations

Local communities can take control of their destinies so that conservation goals will be achieved simultaneously with development objectives, in a manner that is fair to all parties concerned. This “bird’s-eye” perspective shows a new way of designing residential developments which differ dramatically from the current land consumptive approach typical of most Michigan communities. In the subdivision shown above, the developer can build the maximum number of homes permitted under the community’s zoning, while at the same time permanently protecting over half of the property, adding it to an interconnected network of conservation lands. The property illustrated above has been used elsewhere in this booklet to demonstrate the principles of “conservation planning/design.” If you would prefer to see new development create more livable communities and in the process conserve irreplaceable natural resources such as prime farmlands, forest land and wildlife habitat, this approach may be right for your community.
Each time a property is developed (especially for residential purposes), an opportunity exists for adding land to a community-wide network of conservation lands. Although such opportunities are seldom taken in most communities, this situation could be reversed fairly easily by making several small but significant changes to a community’s land use plan and regulations.

Simply stated, Conservation Planning/Design rearranges the development on each parcel as it is being planned so that only half (or less) of the buildable land is consumed by lots and streets. Without controversial “down zoning,” the same number of lots can be developed, but in a less land consumptive manner, allowing the balance of the property to be permanently protected and added to an interconnected network of conservation lands. This “density neutral” approach provides a fair and equitable way to balance conservation and development objectives.

**THE CONSERVATION PLANNING/DESIGN CONCEPT**

**Four Key Conservation Tools**

1. **Envisioning the Future: Performing “Community Audits”**

   Successful communities have a realistic understanding of their future. The audit projects past and current development trends into the future so that officials and residents may easily see the long-term results of continuing with current land use regulations. Communities use this knowledge to periodically review and adjust their goals and strategies for conservation and development.

2. **Identifying Networks of Conservation Lands**

   Successful communities have a good understanding of their important natural, scenic and historic resources. They establish reasonable goals for conservation and development that reflect their special resources, existing land use patterns and anticipated growth. Their Land Use Plans document these resources, goals and policies. The plan contains language about the kinds of ordinance updating and conservation programs necessary for those goals to be realized. A key part of the Land Use plan is a Map of Potential Conservation Land that is intended to identify the location of potential conservation lands in each development as it is being laid out.

3. **Conservation Zoning: A “Menu of Choices”**

   Successful communities have legally defensible, well-written zoning regulations that meet their “fair share” of future growth and provide for a logical balance between community goals and private landowner interests. They incorporate resource suitabilities, flexibility, and incentives to require the inclusion of permanent conservation lands into new development. The four zoning options summarized in this publication, and described in detail in the Better Designs for Development manual, respect the property rights of landowners and developers without unduly impacting the remaining natural areas that make our communities such special places in which to live, work and recreate.

4. **Conservation Design: A Four Step Process**

   Successful communities recognize that both design standards and the design process play an important part in conserving a community’s natural and scenic resources. Such communities adopt land use regulations which require site planning while identifying the special features of each property, and introduce a simple methodology showing how to lay out new development, so that the majority of those special features will be permanently protected in designated conservation areas or preserves. To a considerable extent, these areas can be pre-identified in the Land Use Plans’ Map of Potential Conservation Lands so that as each area is developed it will form an integral part of a community-wide network of protected conservation lands, as noted above.
The future that faces most communities in Michigan under current zoning practices is the systematic conversion of every unprotected acre of buildable land into developed uses. Most local ordinances allow, encourage and in many cases mandate standardized layouts of “wall-to-wall lots.” Over a period of time this process produces a broader pattern of “wall-to-wall sprawl” (see Figure 1). The “community audit” visioning process helps local officials and residents see the ultimate result of continuing to implement current land-use policies. The process helps start discussions about how current trends can be modified so that a more desirable future is ensured.

No community actively plans to become a bland expanse of suburban-type “sprawl.” However, most zoning codes program exactly this outcome. Communities can perform audits to see the future before it happens, so that they will be able to judge whether a mid-course correction is needed. A community audit entails:

**Numerical Analysis**

The first step involves a numerical analysis of growth projections, both in terms of the number of dwelling units and the number of acres that will probably be converted into houselots and streets under present codes.

**Written Evaluation**

The second step consists of a written evaluation of the land-use regulations that are currently on the books, identifying their strengths and weaknesses and offering constructive recommendations about how they can incorporate the conservation techniques described in this booklet. It should also include a realistic appraisal of the extent to which private conservation efforts are likely to succeed in protecting lands from development through various non-regulatory approaches such as purchases or donations of conservation easements or fee title interests.

**“Build-Out” Maps**

The third step entails mapping future development patterns on a map of the entire community (see Figure 2). Alternatively, the “build-out map” could focus only on selected areas in the community where development is of the greatest immediate interest, perhaps due to the presence of special features identified in the Land Use Plan or vulnerability due to development pressures.

The following parts of this booklet describe practical ways in which communities can take control of their destinies so that conservation goals will be achieved simultaneously with development objectives, in a manner that is fair to all parties concerned.
Although many communities in Michigan have adopted Land Use Plans which outline the need to protect their natural, aesthetic and historic resources, very few have taken the next logical step of identifying these areas and creating a Map of Potential Conservation Lands.

Such a map is the first step for any community interested in conserving natural and aesthetic resources in an interconnected network. The Map of Potential Conservation Lands serves as the tool which guides decisions regarding which land to protect in order for the network to eventually take form and have substance.

A Map of Potential Conservation Lands usually starts with information contained in the community’s existing planning documents. The next task is to identify two kinds of resource areas. Primary Conservation Areas comprise only the most severely constrained lands, where development is typically restricted under current codes and laws (such as wetlands, flood plains, and areas where slopes exceeding 20-25% predominate). Secondary Conservation Areas include all other locally noteworthy or significant features of the natural or cultural landscape. This may include features such as mature woodlands, wildlife habitats and scenic roadways, prime and unique farmlands, prime timberlands, groundwater recharge areas, greenways and trails, river and stream corridors, historic sites and buildings, and scenic viewsheds. These Secondary Conservation Areas are often best understood by the local residents who may be directly involved in their identification. Usually under most community land use regulations these resource areas are totally unprotected and are simply zoned for one kind of development or another.

A base map is then prepared on which the Primary Conservation Areas have been added to an inventory of lands which are already protected (such as parks, land trust preserves, and properties under conservation easement). Clear acetate sheets (or GIS Data Layer) showing each kind of Secondary Conservation Area are then laid on top of the base map in an order reflecting the community’s preservation priorities (as determined through public discussion).

This “sieve mapping” process will reveal certain situations where two or more conservation features appear together (such as woodlands and wildlife habitats, or farmland and scenic viewsheds). It will also reveal gaps where no features appear.

Although this exercise is not an exact science, it frequently helps local officials and residents visualize how various kinds of resource areas are spatially related to one another, and enables them to tentatively identify both broad swaths and narrow corridors of resource land that could be protected in a variety of ways. Figure 3 illustrates a portion of a township map which has followed this approach.

The planning techniques which can best implement the community-wide Map of Potential Conservation Lands are Conservation Zoning and Conservation Design. These techniques, which work hand in hand, are described in detail below. Briefly stated, Conservation Zoning expands the range of development choices available to landowners and developers. And just as importantly, it also eliminates the option of creating full-density suburban sprawl layouts that convert all land within new developments into new lots and streets.

The second technique, Conservation Design, devotes half or more of the buildable land area within a development as undivided permanent conservation lands. Not surprisingly, the most important step in designing a new development using this approach is to identify the land that is to be preserved. By using the community-wide Map of Potential Conservation Lands as a template for the layout...
and design of conservation areas within new developments, an interconnected network of conservation lands spanning the entire community is eventually created.

Figure 4 shows how the conservation lands in three adjoining developments has been designed to connect, and illustrates the way in which the Map of Potential Conservation Lands become a reality.

Figure 5 provides a bird’s-eye view of a landscape where an interconnected network of conservation lands has been gradually protected through the steady application of conservation zoning techniques and conservation design standards.

Figure 4 The conservation lands (shown in gray) were deliberately laid out to form part of an interconnected network of open space in these three adjoining subdivisions.

Figure 5 The end-result of applying the techniques described in this booklet is illustrated in this perspective sketch prepared by the Montgomery County Planning Commission.

CONSERVATION ZONING
A “MENU” OF CHOICES

As mentioned previously the main reason that most new development in Michigan consists of nothing more than new lots and streets is that most communities have adopted a very limited planning model whose sole purpose is to convert natural lands into developed properties. Little if anything is asked in respect to conserving natural resources or providing neighborhood amenities (see Figure 9).

Communities wishing to discourage this type of development pattern need to consider modifying their zoning to require new development to set aside at least 50 percent of the buildable land as permanently protected conservation lands. The development potential that could normally be realized in this area is “transferred” to the remaining 50 percent of the buildable lands on the property.

Following this approach, a municipality would first calculate a site’s yield using traditional zoning. A developer would then be permitted full density only if at least 50 percent (or more) of the buildable land is maintained as undivided conservation lands (illustrated in Figure 6: “Option 1”). Under certain conditions communities might also consider offering as much as a 100 percent density bonus for protecting 70 percent of the land (Figure 7: “Option 2”).

It is noteworthy that the 36 village-like lots in Option 2 occupy less land than the 18 lots in Option 1, and that Option 2 therefore contributes more significantly to the goal of creating community-wide networks of conservation lands. The village-scale lots in Option 2 are based on traditional neighborhood design principles and are modeled after historic hamlet and village layouts. This type of development has proven to be particularly popular with empty nesters, single-parent households, and couples with young children.

Developers wishing to serve the large lot market have a “country properties” option (Figure 8: “Option 3”). Under this option up to 20 percent of the properties gross area (10 acres in this case) may be split into small lots. The average size of these small lots may be no less than two acres. The remainder of the property may remain as a single contiguous parcel or if area allows this parcel may be split into large lots a minimum of 25 acres in area.

Under conservation zoning, absent from this menu of choices is the conventional full-density development providing no conservation lands (Figure 9). Because that kind of development causes the largest loss of resource lands and poses the greatest obstacle to conservation efforts, it is not included as an option under this approach.
Figure 9
The kind of subdivision most frequently created in Michigan is the type which blankets the development parcel with house lots, and which pays little if any attention to designing around the special features of the property. However, such a sketch can provide a useful estimate of a site's capacity to accommodate new houses at the base density allowed under zoning—and is therefore known as a "Yield Plan."

Figure 6
Option 1 Density-neutral with Pre-existing Zoning
18 Lots Lot Size Range: 20,000 to 40,000 sq. ft.
50% undivided open space

Figure 7
Option 2 Hamlet or Village
36 Lots Lot Size Range: 6,000 to 12,000 sq. ft.
70% undivided open space

Figure 8
Option 3 County Properties
A maximum of 5 lots may be created on 10 acres
The remainder of the land remains as a single parcel or may be divided into lots 25 acres or greater in area
Designing developments around the central organizing principle of land conservation is not difficult. However, it is essential that ordinances contain clear standards to guide the conservation design process. The four-step approach described below has been proven to be effective in laying out new full-density developments where all the significant natural and cultural features have been preserved.

**Step One** consists of identifying the land that should be permanently protected. The developer incorporates areas pre-identified on the community-wide Map of Potential Conservation Land and then performs a site analysis in order to precisely locate features to be conserved. The developer first identifies all the Primary Conservation Areas (Figure 10). He then identifies Secondary Conservation Areas (Figure 11) which comprise noteworthy features of the property that are typically unprotected under current codes. These include: mature woodlands, greenways and trails, river and stream corridors, prime farmland, hedgerows and individual free-standing trees or tree groups, wildlife habitats and travel corridors, historic sites and structures, scenic views, etc. After “greenlining” these conservation elements, the remaining
part of the property becomes the *Potential Development Area* (Figure 13).

**Step Two** involves locating sites of individual building envelopes within the *Potential Development Area* so that their views of the conservation lands are maximized (Figure 13). The number of building envelopes is a function of the density permitted within the zoning district, as shown on a Yield Plan (Figure 9).

**Step Three** simply involves “connecting the dots” with streets and informal trails (Figure 14), while **Step Four** consists of drawing in the lot lines (Figure 15).

This approach reverses the sequence of steps in laying out conventional developments, where the street system is the first thing to be identified, followed by lot lines fanning out to encompass every square foot of ground into new lots. When communities require nothing more than “new lots and streets,” that is all they receive. By setting community standards higher and requiring 50 to 70 percent conservation lands as a precondition for achieving full density, officials can effectively encourage the conservation of natural and scenic resources in their community. The protected conservation lands in each new development become building blocks that add new acreage to a community-wide network of interconnected conservation lands each time a property is developed.
Frequently Asked Questions

Q. Does conservation planning/design involve a “takings”?  A. No. People who do not fully understand this conservation-based approach to development may mistakenly believe that it constitutes a “taking of land without compensation.” This misunderstanding may stem from the fact that conservation developments, as described in this booklet, involve either large percentages of undivided conservation lands or lower overall building densities.

There are two reasons why this approach does not constitute a “takings.”

First, no density is taken away. Conservation zoning is fundamentally fair because it allows landowners and developers to achieve full density under the municipality’s current zoning and, in some cases even to increase that density significantly through several different “as-of-right” options. Of the three options previously described, two provide for either full or enhanced densities. The other option offers the developer the choice to lower densities and increased lot sizes. Although conservation zoning precludes full density layouts that do not include conservation lands, this is legal because there is no constitutional “right to sprawl.”

Second, no land is taken for public use. None of the land which is required to be designated for conservation purposes becomes public (or even publicly accessible) unless the landowner or developer wants it to be. In the vast majority of situations, communities themselves have no desire to own and manage such conservation land, which they generally feel should be a neighborhood responsibility. In cases where local officials wish to provide community recreational facilities (such as ballfields or trails) within conservation developments, the community must negotiate with the developer for the purchase of that land on a “willing seller/willing buyer” basis. To facilitate such negotiations, conservation zoning ordinances can be written to include density incentives to persuade developers to designate specific parts of their conservation land for public ownership or for public access and use.

Q. What are the ownership, maintenance, tax and liability issues?  A. Among the most commonly expressed concerns about developments with permanently protected conservation lands are questions about who will own and maintain the conservation land, and who will be responsible for the potential liability and payment of property taxes. The short answer is that whoever owns the conservation land is responsible for the above.

Q. But who owns this land?  A. Ownership Choices

There are basically four options, which may be combined within the same development where that makes the most sense.

1. Individual Landowner

At its simplest level, the original landowner (a farmer, for example) can retain ownership of 70 to 100 percent of the conservation land to keep it in the family. (In these cases up to 30 percent of the conservation lands could be reserved for common neighborhood use by development residents.) That landowner can also pass this property on to sons or daughters, or sell it to other individual landowners, with permanent conservation easements running with the land and protecting it from development under future owners.

2. Homeowners’ Associations

Most conservation land within developments is owned and managed by homeowners’ associations...
approval. The community within developments, automatic, a precondition of property purchase in the development. Second, zoning should require that bylaws give such associations the legal right to place liens on properties of members who fail to pay their dues. Third, facilities should be minimal (ballfields and trails rather than clubhouses and swimming pools) to keep annual dues low. And fourth, detailed maintenance plans for conservation areas should be required by the community as a condition of approval. The community should have enforcement rights and may place a lien on the property should the HOA fail to perform their obligations to maintain the conservation land.

3. Land Trusts

Although homeowners’ associations are generally the most logical recipients of conservation land within developments, occasionally situations arise where such ownership most appropriately resides with a land trust (such as when a particularly rare or significant natural area is involved). Land trusts are private, charitable groups whose principal purpose is to protect land under its stewardship from inappropriate change. Their most common role is to hold easements or fee simple title on conservation lands within new developments and elsewhere in the community.

To cover their costs in maintaining land they own or in monitoring land they hold easements on, land trusts typically require some endowment funding. When conservation zoning offers a density bonus, developers can donate the proceeds from the additional “endowment lots” to such trusts for maintenance or monitoring.

4. Municipality or Other Public Agency

In special situations a local government might desire to own part of the conservation land within a new development, such as when that land has been identified in a Land Use Plan as a good location for a neighborhood park or for a link in a community trail network. Developers can be encouraged to sell or donate certain acreage to communities through additional density incentives, although the final decision would remain the developer’s.

5. Combinations of the Above

As illustrated in Figure 18, the conservation land within new developments could involve multiple ownerships, including (1) “non-common” conservation lands such as cropland retained by the original farmer, (2) common conservation lands such as ballfields owned by an HOA, and (3) a trail corridor owned by either a land trust or by the community.

Tax Concerns

Property tax assessments on conservation developments should not differ, in total, from those on conventional developments. This is because the same number of houses and acres of land are involved in both cases (except when part of the conservation lands is owned by a public entity, which is uncommon). Although the conservation lands in conservation developments is usually taxed at a lower rate because easements prevent it from being developed, the adjacent lots usually are taxed at a higher rate since their location next to permanently protected conservation lands usually result in them being more desirable.

Q. How does this conservation approach differ from “clustering”?

A. The conservation approach described in the previous pages differs dramatically from the kind of “clustering” that has occurred in many communities throughout Michigan over the past several decades. The principal points of difference are as follows:

Higher Percentage and Quality of Conservation lands

In contrast with typical cluster codes, conservation zoning establishes higher standards for both the quantity and quality of conservation lands that is to be preserved. Under conservation zoning, 50 to 70 percent of the unconstrained land is permanently set aside. This compares with cluster provisions that frequently require only 25 to 30 of the gross land area be conserved. That minimal land area usually ends up including all of the most undesirable land as conservation lands, and sometimes also includes undesirable, left-over areas such as stormwater management facilities and land under high-tension power lines.

Conservation lands

Pre-Determined to Form Community-wide Conservation Network

Although clustering has at best typically produced a few small “green islands” here and there in any community, conservation zoning can protect

![Figure 16](Image)

Various private and public entities can own different parts of the open space within conservation subdivisions, as illustrated above.
blocks and corridors of permanent conservation lands. These areas can be pre-identified on in the community’s Map of Potential Conservation Lands so that each new development will add to rather than subtract from the community’s conservation lands acreage.

Eliminates the Standard Practice of Full-Density with No Conservation lands

Under this new system, full density is only achievable for layouts in which 50 percent or more of the unconstrained land is conserved as permanent, undivided conservation lands. By contrast, cluster zoning provisions are typically only optional alternatives within ordinances that permit full density, by right, for standard “cookie-cutter” designs with no conservationlands.

Q. How do residential values in conservation developments compare to conventional developments?

A. Another concern of many people is that homes in conservation developments will differ in value from those in the rest of the community. Some believe that because so much land is set aside as conservation lands, the homes in a conservation developments will be prohibitively priced and the community will become a series of elitist enclaves. Other people take the opposite view, fearing that these homes will be smaller and less expensive than their own because of the more compact lot sizes offered in conservation developments.

Both concerns are understandable but they miss the mark. Developers will build what the market is seeking at any given time, and they often base their decision about selling price on the character of surrounding neighborhoods and the amount they must pay for the land.

In conservation developments with substantial open space, there is little or no correlation between lot size and price. These developments have sometimes been described as “golf course communities without the golf course,” underscoring the idea that a house on a small lot with a great view is frequently worth as much or more than the same house on a larger lot which is boxed in on all sides by other houses.

It is a well-established fact of real estate that people pay more for park-like settings, which offset their tendency to pay less for smaller lots. Successful developers know how to market homes in conservation developments by emphasizing the conservation lands. Rather than describing a house on a half-acre lot as such, the product is described as a house with 20 and one-half acres, the larger figure reflecting the area of conservation land that has been protected in the development. When that conservation area abuts other similar land, as in the township-wide conservation lands network, a further marketing advantage exists.

Relationship of the Better Designs Approach to Other Planning Techniques

Successful communities employ a wide array of conservation planning techniques simultaneously, over an extended period of time. Communities should continue their efforts to preserve special properties in their entirety whenever possible, such as by working with landowners interested in donating easements or fee title to a local conservation group, purchasing development rights or fee title with county, state or federal grant money, and transferring development rights to certain “receiving areas” with increased density. While these techniques can be effective, their potential for influencing the “big picture” is limited.

The conservation approach outlined above offers great potential because it:

1. does not require public expenditure of funds
2. does not depend upon landowner charity
3. does not involve complicated regulations for shifting rights to other parcels
4. does not depend upon the cooperation of two or more adjoining landowners to make it work

The conservation planning/design approach offers communities a practical way of protecting large acreages of land in a methodical and coordinated manner.
County Planning;
Its Legal Authority and Coordinated Planning

A county planning commission has a unique role to play in Michigan. It is the main planning body which has a statutory coordination role and specific planning and zoning review procedures. This pamphlet will discuss how an adopted county plan can be effective in coordinating land use among local governments and will discuss the direct review and authority between county, city, village, and township planning and zoning. First, this pamphlet will review what a county plan is and its content.

The County Plan

There are a number of different types of plans which might be prepared by a county planning commission.

A county plan is the same “master plan” referred to and authorized to be adopted by the Michigan Planning Enabling Act. A county plan is the county planning commission’s recommendations for the development of the county (for land use, zoning, infrastructure, economy, housing, and so on) and for coordination with municipalities, county departments, the county road commission, state, Native American, Federal governments and others. A master plan is the formal policy of the county, and its statement of goals, objectives, and intended strategies.

A county plan should also be the “plan” referred to in the Michigan Zoning Enabling Act.

---

1 Section 41(2) of P.A. 33 of 2008 (the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.); Section 307(1) of P.A. 110 of 2006, as amended (the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). (This footnote used to cite the following acts, each repealed as of September 1, 2008: P.A. 282 of 1945, as amended (the County Planning Act (M.C.L. 125.101 et seq.); section 7b(3) and 7b(5) of P.A. 184 of 1945, as amended, (the Township Planning Act, M.C.L. 125.287b(3) and 125.287b(5)); and section 7b(3) and 7b(5) of P.A. 285 of 1931, as amended, (the Municipal Planning Act, M.C.L. 125.37b(3) and 125.37b(5)).)
That section reads “The zoning ordinance shall be based upon a plan . . .”\(^2\) A county plan can also be, in part or in whole, the “master plan” which is adopted by a township, city, or village in the same county. (To use a county Plan as a part or all of the master plan for incorporated municipalities (city or village), it must first, in whole or in part, be adopted as part or all of that city’s or village’s official master plan.\(^3\) That adoption must be done by the city or village in accordance with the procedures contained in the Michigan Planning Enabling Act.)

A county plan is the document which should be used for purposes of the county planning commission reviewing township zoning and township, city and village master plans.\(^4\)

With the passage of the Michigan Planning Enabling Act, state law was clarified regarding the elements that should be included in a master plan (see Sections 7(2) and 33(2)). Still, the statute lacks specifics regarding the exact master plan requirements for each type of community.

Case law has been inconsistent in what it requires for the “plan” which zoning must be based upon. Some courts have even held the zoning map is adequate to serve as that “plan.” Through the years there have been several authors which have presented an outline of what should be in a plan and what should be the minimum for purposes of the basis of a zoning ordinance. More recently, a group of professional planners reached a consensus on this issue. That consensus – by no means a universal consensus – is reflected in a proposed \textit{Coordinated Planning Act}. This proposal was developed by the Michigan Chapter of the American Planning Association (now the Michigan Association of Planning (MAP)). This reflects the most comprehensive effort to date. It is presented here as one – not the only – list of what a master plan’s content should be. The proposal was not adopted into statute, but it might be viewed as an indication of “Best Planning Practice.”

The “Best Planning Practice” presents several different types of plans:

- The first or most basic is a county “General Plan.” It is a policy-based plan with generalized future land use maps, which would only be adopted by a county planning commission.
- “Future Land Use Plan:” This plan would be the minimum type of plan required if the plan is intended for a county, township, city, or village to adopt for the basis of its zoning.
- “Comprehensive Plan:” If a more complete planning program is desired, a Comprehensive Plan should be prepared.
- Special planning efforts: There are any number of special purpose (neighborhood, lake, downtown, or special topic) plans that may be desired for a particular community or county.
- “Growth Management Plan” or “Redevelopment Plan:” This type of plan should be prepared if one desires to phase growth, initiate redevelopment efforts, use Transfer of Development Rights, Purchase of Development Rights, and so on.
- Any plan can incorporate, by reference, relevant portions of other plans adopted by other agencies and governments.

All of these plans can be combined into one document, and/or can be broken into separate documents by geography or by topic area, e.g. land use, infrastructure (utilities), economic

---

\(^2\) Section 203(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3203(1)).

\(^3\) Section 47(1) of P.A. 33 of 2008, (being the Michigan Planning Enabling Act, M.C.L. 125.3847(1)).


\(^5\) Pursuant to section 41(2) of P.A. 33 of 2008 (being the Michigan Planning Enabling Act, M.C.L. 125.3841(2)).
development, housing, human services, transportation, recreation, natural resources, and government.

See the pamphlet *Land Use Series “Check List #1G: For Adoption of a Plan in Michigan”* available from Michigan State University Extension, for a listing of the content of each of the plans listed here.

A county plan can be adopted in part or as a single plan. The main plan document should list other published components and selected special reports, studies, and so on. If the county adopts the plan in part, then the main part (usually land use) should be controlling. That should be clearly stated in the main plan. This is done so if other components of the county’s plan, adopted separately from the main (controlling) part of the plan, conflicts or contradicts with the main part of the plan, then the controlling plan shall supercede the other plan(s).

**Review of Public Works**

After a county plan is adopted, the county planning commission has a potentially powerful tool which should be used to accomplish intergovernmental coordination:

“Following adoption of the county plan or any part of a county plan and the certification by the county planning commission to the county board of commissioners of a copy of the plan, work shall not be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by any county board, department, or agency unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the county planning commission and the report and advice of the planning commission on the proposal have been received by the county board, department, or agency submitting the proposal. However, work on the project may proceed if the planning commission fails to provide in writing its report and advice upon the proposal within 35 days after the proposal is filed with the planning commission. The planning commission shall provide copies of the report and advice to the county board, department, or agency sponsoring the proposal.”

Many County Planning Commissions do not exercise this duty. They should.

**Review of Local Plans and Zoning**

Also, after a county plan is adopted, it should be used by the county planning commission when reviewing township, village, and city plans; and township zoning ordinances. A township, village, and city is required by statute to submit a new plan or amendment to the county planning commission for review. A township is required by statute to submit a new zoning ordinance, or amendment, to the county planning commission for review. In addition to submitting the plan, comments by townships, villages, cities, and regional planning agencies within or contiguous to the planning area may be submitted to the county planning commission for review. Without an adopted county plan, the county should seriously consider reducing

---

“Following adoption of the county plan... work shall not be initiated... involving the expenditure of money by a county board, department, or agency... unless a full description of the project... has been submitted to the county planning commission and the report and advice of the planning commission on the proposal have been received by the county board... or agency submitting the proposal...”

---

6 Section 61(2) of P.A. 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3861(2)). (This footnote used to cite the following act, repealed September 1, 2008: Section 5(9) of P.A. 282 of 1945, as amended, (being County Planning Act, M.C.L. 125.105(9)).)
its review to just a review of the comments from other governments within or contiguous to the planning area. Without an adopted plan, there is no way for a local government to have an idea what is needed to do to achieve county approval. Before a local government is subject to approval or disapproval, it is reasonable to first have developed (with a large amount of input from local governments) and adopted the county plan.

Review of Local Plans

The county planning commission should take an active role in conducting its reviews of local plans and zoning. The review of a township, village, and city plan should consider the following points:

- First: Is it consistent with adopted county plans?
- Second: Is the review and response to comments submitted by other governments reviewing the plan favorable, and are those comments with merit (if comments were optionally submitted to the county planning commission)?
- Third: Does it avoid inconsistencies with each adjacent (both in and out of your county) municipal plans? (If the adjacent plan complies with the county plan and the proposed plan complies with the county plan, then there should not be any conflict between the two municipal plans.)
- Fourth: Does it avoid inconsistencies with other governmental agency plans?

If the answer to any of these is “no,” then the county planning commission’s review should not be favorable.

With an adopted county plan, the county planning commission should take an active role in conducting its reviews of local plans and zoning.

In conducting the review of plans, it is not enough to say there is a conflict at the boundary. Just because there is a conflict, it is not always correct to say the plan submitted for review is the problem. The problem may be the adjacent, older, plan. How does one tell which one is in conflict or “out of step”? The “tiebreaker” should be the county plan, by determining which most closely complies with the county plan.

Plan Review Process

The review of plans by the county planning commission is important. The process of planning coordination is a part of the Michigan Planning Enabling Act. The process is in place, so it is a matter of adopting the attitude to make it work. In brief, the steps to adopt a plan (in a coordinated fashion) are:

1. At the start of the planning process, the municipal or county planning commission must first send out an “I am starting to plan” notice. This notice is sent to a large list of municipalities within and adjacent to the area the plan is for and other government agencies. This is the “coordinated planning notification list” to send notices to:
   - A. For municipalities and counties: The planning commission, or if there is no planning commission, the legislative body of each city, village, and township located within or contiguous to the municipal or county government.
   - B. For municipalities and counties: The regional planning commission for the region in which the municipal government is located, if there is not a county planning commission. (If there is a county planning commission, submission by a municipality to the regional planning agency is optional.)
   - C. For municipalities: The county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which municipal government is located.
   - D. For municipalities and counties: Each public utility company and railroad company owning or operating a public utility or railroad within the county or municipal government and any government entity, that...
registers its name and mailing address for this purpose with the county or municipal planning commission.

E. For counties: The regional planning commission, if any, for the region in which the county government is located.

F. For counties: The county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

The legislature’s list might not include everyone. Coordination should possibly include more organizations, such as:

G. For municipalities: The planning commission or, if there is no planning commission, the county board of commissioners of each county contiguous to the municipality and other governments within the municipality.

H. For municipalities and counties: Each state, federal, Native American tribal government, government agency which owns more than 10 acres of land within the municipality or county, downtown development authorities, tax increment finance authorities, brownfield authorities, school districts, historic commission, parks commission, airport authority and others.

I. For municipalities and counties: Other special interest groups (chamber, farm bureau, property owners association, lake association, youth group, conservation district, environmental organization, etc.)

The planning acts require sending out the notice. However, you can use this to establish a system of communication that leads to coordination with other governments. The notice can include events such as joint meetings, study committees on “issues of greater than local concern,” or particularly for a county, formation of a committee to prepare the plan who’s membership includes representatives of all those receiving the notice.

2. The municipality or county commission studies and assembles background material to prepare a draft plan. Here is where the planning commission and the county planning commission can be proactive in identifying topics for coordination. The county planning commission will have received the notice in step number 1, above, so the county will know work on a plan has started in a local government.

3. The planning commission prepares a draft plan.

4. The planning commission submits the draft plan to the legislative body (elected officials), which approves the distribution of the draft plan.

5. A copy of the draft plan is sent to the “coordinated planning notification list” (same list as in number 1, above) including the county planning commission⁷.

A. Everyone receiving the draft plan should review the draft plan. The review should be based on their own plans, if any. If they do not have their own plan, then any comments should be brief, or not made at all.

B. Each comment made should include a list of facts and reasons behind the comment. It is not enough to say one does not like or agree with some aspect of the plan. What carries the weight are the facts and reasons behind the statements.

C. For municipal plans: Each comment by a township, village, and city may be duplicated and sent to both the municipality submitting the plan and the county planning commission.

---

⁷ If there is no county planning commission, the central coordination role is not lost. First, with no county planning commission, materials are sent to the county board of commissioners. Also, if there is no county planning commission, materials must be sent to the regional planning commission (instead of being optional). It is possible for the regional planning commission to perform the county planning role in an advisory capacity to the county board. As used here, “county board of commissioners” means (1) the county executive in a county organized under P.A. 293 of 1966, as amended (M.C.L. 45.501 et seq.) or (2) the elected county board of commissioners or a subcommittee of the county board which has been assigned the review responsibility.
commission (recommended). Comments need to be made within 63 days from the draft plan being sent in number 5, above (42 days if a draft of a plan amendment).

6. The municipal planning commission receives the county’s comments and everyone else’s comments. These comments should be reviewed with great care. For each comment made, one of two things should be done:
   A. Respond by changing the draft plan to address the concern in the comment.
   B. Respond by listing the municipal planning commissions facts and reasons why the concern raised is not valid. You will want your facts and reasons to present a preponderance of information to support your position. If that is not the case, reconsider changing the draft plan.
   C. Remember, the comments received are advisory only, however, do not dismiss them lightly. Coordination and cooperation is still the goal.

8. The municipal or county planning commission holds at least one public hearing on the revised draft plan, after complying with specific notice requirements.

9. After the hearing and any further modifications to the revised draft plan, the municipal or county planning commission adopts the plan. (The municipal or county legislative body also adopts the plan if they assert the right to do so.)

10. A copy of the adopted plan is sent to the “the coordinated planning notification list” (same as listed in number 1, above).

   The intent to have a system for coordination is clear. Every government has the responsibility to coordinate planning in their community and to cooperate for implementation of the plan.

   The county planning commission has an important role to make coordinated planning happen. The county is positioned to see the big picture. County planning is at the center, ideally receiving other’s comments and responsible for making plans for a relatively large geographic area. The county planning commission’s coordination role includes responsibility to initiate coordination opportunities, be proactive, and provide detailed substantiated comments with facts and reasons.

   For further information on making comments on another community’s plan see MSU Extension’s Land Use Series “How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan.” For further information on responding to a community’s comments see “How a Planning Commission Should Respond to Submissions.”

**Review of Local Zoning**

Only after a county plan is adopted should it be used by the county planning commission to review local zoning ordinances. A township is required by statute to submit a zoning ordinance, or zoning amendment, to the county planning commission for review. (Villages and cities do not have to submit a new zoning ordinance or zoning amendments to a county for review, but the county can choose to still submit comment at the city or village’s hearing on the zoning.) If the county does not have an adopted plan, the county should consider waiving its review or acting to make no comment because there is no previously written indication of what is expected for approval.

Review of township zoning – just like submitting comment at a city or village zoning hearing – is purely advisory. The township, village, and city can choose to ignore the county planning commission’s comment. The township, however, is required by statute to submit its zoning, or zoning amendment, to the county planning commission for review.

---

**Review of township zoning is purely advisory. The township, village, and city can choose to ignore the county planning commission’s comment.**

The county should review a proposed township zoning ordinance by considering the following points:

- First: Are legal adoption procedures followed
(ask for an attorney’s opinion)? (Note: this step should be skipped when reviewing city and village zoning.)

- Second: Is it inconsistent with the adopted township land use plan? (State statute requires a zoning ordinance to be based on a plan.)
- Third: Is it inconsistent with the adopted county general plan and/or land use plan? (If the proposed zoning complies with the township land use plan, and the county found no conflict with and approved the township land use plan, then the zoning should not be a problem with the county land use plan.)
- Fourth: Is there a conflict created with an adjacent municipality (both in and out of your county)? (If the adjacent zoning complies with the county land use plan, and the proposed zoning complies with the county land use plan, then there should not be any boundary conflicts.)

In conducting the review of zoning, it is not enough to say there is a conflict at the boundary. Just because there is a conflict, it is not always correct to say the zoning submitted for review is the problem. The problem may be the adjacent older zoning. How does one tell which one is in conflict, or “out of step”? The “tiebreaker” should be the county plan, by determining which zoning most closely follows the county plan.

Cooperation is Important

There should not be a confrontation over these reviews. The process of adopting a county plan should involve local governments from the very start so that:

- Townships, cities, and villages want to be in compliance with county plans.
- Townships, cities, and villages have a sense of ownership and support of the county plan.
- The review and issue of compliance is seen as a good thing.

No one wins when this process is approached in a confrontational manner.

Coordination is Important

Coordination is clearly needed and the legislature intended it to be a part of the planning and zoning process in Michigan.

The concept of some role for county review and coordination of planning and zoning is a good idea. Best Planning Practice should require communities to be aware of and take into account how their planning and zoning will impact an area greater than their own boundaries.

The Michigan legislature made it clear, coordinated planning is a priority that townships, villages, cities, counties, and regions are responsible for, and in particular, county planning commissions have a major role in, making coordinated planning happen.

Coordination and cooperation is not something the legislature can very effectively make happen by passing laws. However, the legislature can and did create a mechanism for coordinated planning and cooperation. Coordination is an attitude thing. If people want to make it happen it will work. The issue now is for this to become the new practice in Michigan.

The Relative Risk Analysis Project (1992) concluded “lack of integrated and coordinated land use planning” was one of the top environmental problems in Michigan. There are many issues and topics which can not be dealt within a small area, such as a village, city or township. To be effective in planning for many issues, it must be done at a larger geographic scale.

For example, the issue of economic development involves a larger areas than a municipality (village, township, and most cities). The creation of jobs, and the location of people employed come from a labor market area which is often an entire county or multiple counties. To be truly as effective as possible, coordinated planning for economic development needs to deal with worker training, housing, and new industrial sites, in

---

8 Michigan Department of Natural Resources (Public Sector Consultants, Inc.); Relative Risk Analysis Project; July 30, 1992.
the entire labor market area – not just a township.

Groundwater and surface water protection is another example. One community can have a very good system in place to protect a river, lake or groundwater. But those water resources do not stop at the political boundary. Here, planning at a watershed (or ground-watershed) level is critical for long term success. Even planning and government cooperation so a single lake or river is treated the same in the multiple local governments around the lake or along the river is critically important.

Other topics that demand a multi-government cooperative planning approach include:

1. Economic hinterlands: Nearly always include areas in territories of many municipalities. To be effective economic planning, for example, must be done at the same geographic scale as the labor market area; Often, one or more counties.

2. Watersheds: Nearly always include areas in territory of many municipalities.


4. Natural features (lakes, rivers): Often touch more than one municipality.

5. Technology for farming, mining, pipelines, radio transmissions: Cross municipal boundaries.


7. Major developments: Have impacts on more than just one municipality (traffic, lights, etc.) reference, relevant portions of other plans adopted by other agencies and governments.

Every local government in Michigan should identify those “bigger than just local concern” issues and put that list on the table for coordinated planning discussion. The county planning commission has an opportunity to be the leader in this effort. Those issues can be identified for the entire county and:

- Made a part of the discussion and policies of a county plan,
- Prioritized for proactive effort to foster coordination between governments. (For example, the county planning commission initiating meetings and discussions between groups.)
- Facilitate cooperation between local governments.
- Use the planning act process of coordination to the entire area’s benefit.

One of the functions of a county plan should be to outline a single county-wide coordinated planning approach to these types of issues.

Base it all on Your County Plan

Use of an adopted county plan is important. It is especially important in a county where local governments create and administer zoning and land use planning but county agencies have the power to make decisions which can undermine or enhance local government efforts. A county plan should provide an outline of future development. The plan is intended to guide public decisions for new home development, for placement of zoning ordinance district boundaries, new road building construction, etc. so each agency and government is coordinated with each other.

With many planning issues, it is not responsible or realistic for a single municipality to address the issues without the full cooperation and approval of surrounding municipalities and the county (or counties).

Also, a county plan is an important tool for lobbying at the state and Federal government level. In a county where there is land owned by state and national governments, it is even more important. For example, the management of state or federal forests have an impact on land use and local planning. As much as possible, local government and the county should be working to influence decisions made, for example, by the Michigan Department of Natural Resources and the United
States Forest Service.

Coordination at a county level is needed. An overall policy from the county which provides direction and creates a point of cooperation between townships and municipalities in the county is important. Such cooperation is necessary for any progress to be made in the development of an area or in a wise and unified approach to land use controls.
Land Use Series

April 24, 2006

Form Based Codes and Michigan Zoning Enabling Acts

Form based code, or form based zoning is a new type of an approach for zoning that is stating to catch on in Michigan. Simply put, form based code places more emphasis on the design (form) of development and redevelopment, and proportionately less emphasis on use. This pamphlet is to discuss its legal application under Michigan’s zoning enabling statutes.

Legislative Authority

A concern of adopting a form based code is whether or not there is sufficient legislative authority to write, adopt, and implement form based regulation in Michigan. This question is raised in light of an initiative in the state of California to specifically enable form based coding.

Most of the zoning enabling legislation adopted prior to 1924 was based on the New York general city enabling act of 1917. This would include P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et seq.) in Michigan. Most of the zoning enabling acts adopted after 1924, however, were modeled on the Standard State Zoning Enabling Act, prepared by the United States Department of Commerce and first published in 1923 with the final version printed in 1924. This would include P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 et seq.) and P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) in Michigan. Although many current zoning enabling acts embody substantial changes from the Standard Act, the majority retains its substance.

“When I see a bird that walks like a duck and swims like a duck and quacks like a duck, I call that bird a duck.” Attributed to Richard Cardinal Cushing

Although a new zoning ordinance in a “form-based” format, may not look exactly like a duck – it will walk, swim, and quack like one.

“Thirty seven million acres is all the Michigan we will ever have.”

Former Governor William G. Milliken

Author:
Steve Langworthy,
LANGWORTHY STRADER
LEBLANC & ASSOCIATES, INC.
Phone: (616)336-7750
Fax: (616)336-8478
e-mail: lang@lslplanning.com
overland mail:
Grand Rapids Office:
15 Ionia SW, Suite 450
Grand Rapids, MI 49503

1 Assembly Bill 1268 of 2004 making California the first state with specific enabling legislation for form based zoning.
In Michigan both the above acts were used to create the current statute in Michigan: P.A. 110 of 2006 (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.).

We should first note that in the planning community, California, along with such states as Florida, Washington, and Oregon are considered in the eyes of some “progressive,” and in others as the “lunatic fringe,” of planning and zoning efforts. This is by way of saying that the desire for California to codify form based coding may be more a function of how zoning works in California, and is not necessarily transferable to Michigan.

Michigan Zoning and Form Based Codes

Even without specific enabling legislation, a strong argument can be made that Michigan’s current enabling legislation provides sufficient authority when read in the context of the intent and purpose of form based coding.

The Michigan Zoning Enabling Act of 2006 was built on the three Michigan acts discussed above. The current Michigan statute contains the basic enabling language for zoning in Michigan. Section 201 discuss the general purposes of zoning, which include, among others, insuring that uses of the land are “situated in appropriate locations and relationships;” and limiting “the inappropriate overcrowding of land”

The Act then describes methods of implementation for setting up various zoning districts, saying:

“The zoning ordinance shall be based upon a plan . . . .”

A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships.

The form based code works on essentially the same principle; districts are still present and the regulations still address the uses permitted, and set up the “special regulations” applicable to those uses within the districts.

Equally important, the section 203 requires that the regulations and districts be based on a plan. While this provision has generally not been strictly interpreted in the past (some court decisions have considered the zoning map to be the “plan”), a plan should have strong backing for form based regulations. Under the Michigan Zoning Enabling Act the requirement for zoning to be based on a plan is even stronger. The Code author should then incorporate directly the principles and “themes” outlined in the plan as another basis for the regulations.

Another key provision of the Zoning Act is “Regulation of buildings and spaces”: “Sec. 201(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings,

---

2 Section 201 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201. (This footnote, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: Section 1(1) of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581(1)); Section 1 of P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201); and section 1 of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271).)

3 Section 201(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201(1).

4 Section 201(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201(1). (This footnote, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: Section 1(1) of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581(1)); Section 1 and 3 of P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201 and 125.203); and section 1 and 3 of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 and 125.203).)

5 Section 203(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3203(1).
buildings, and structures that may be erected or altered, including tents and recreational vehicles.”

This directly addresses the specifics of regulation that apply equally to “traditional” zoning and form based zoning. In form based codes, the language is developed with an eye toward a specific physical plan for new development as well as redevelopment. This may include a broad range of regulation that can encompass building alignment toward the street (setbacks, building orientation), spaces between buildings (side setbacks, separation between disparate uses), and heights, each of which can be described in ranges of acceptable values.

Essentially, then, form based coding looks at the same measures and parameters as traditional zoning, just in a more specific manner.

The following phrase in Michigan’s zoning statute is an important one:

“Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.”

This provision will affect the creation of the various districts to ensure that this “uniformity” requirement is met.

Finally, MCL 125.583 contains the following provision, often overlooked in zoning regulation:

“A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems . . .”

There are few, if any, cases that specifically address or, for that matter, limit the meaning or intent of this language, but it appears as though the “specific land management objectives” and “specific land use problems” could be reasonably interpreted as those issues identified through the community’s plan.

Legal Challenges

There are two “Holy Grails” of zoning; the first is to have an Ordinance that can be quickly and easily understood by the “man on the street;” the second is to have an Ordinance free from legal challenge. However, no code, however well written, researched, justified, or crafted will either be completely understood by those who lack at least a basic understanding of zoning, or be free from challenge.

While it is hoped that any code will be at least easier to use, the concerns that are of most immediate interest are those that may directly challenge the code itself, rather than those that may specifically contest the code as it is applied to individual situations.

The Michigan Courts have consistently stated that:

“A facial challenge to the validity of an ordinance attacks the enactment or existence of the ordinance. To establish that a zoning ordinance violates substantive due process protections, a party must show: (1) that there is no reasonable governmental interest advanced by the zoning classification, or (2) that the ordinance is unreasonable because it contains arbitrary, capricious and unfounded exclusions of legitimate land

---

6Section 201(4) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201(4). (This foot note, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: Section 2 of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.582); Section 3 of P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.203); and section 3 of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.273).)

7Section 201(2) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201(2).

---

8Section 201(3) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3201(3). (This foot note, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: Section 3 of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.583); Section 1 of P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.201); and section 1 of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271).)
Reasonable Governmental Interest

It will be important to make sure the community’s plan will need to list and document a number of reasonable governmental interests to support use of a form based code. Those should be embodied throughout the code. The intent is to reference back to the purposes and intent of the community’s plan as often as possible. In addition, there should be an extensive public involvement process, first undertaken to develop and adopt a plan, and undertaken to develop the form based code. It is important to be able to demonstrate the efforts of the community to actively seek out various interests that can provide strong support for this effort.

Exclusionary Zoning

Far from being exclusionary, the form based code will instead contain much more flexibility in the use of land, particularly in areas of high intensities of land use, such as the downtown, as well as in traditional business areas, mixed use neighborhoods, and other similar areas. Again, using the plan and the extensive public involvement effort for the development of the code will help ensure that the form based zoning is not “arbitrary” or “capricious.”

Code as Applied

A second concern may develop as the code comes into more common use, and individual challenges raised during its application to specific properties. In this, the code will need to address both substantive and procedural due process issues. As frequently stated by Michigan courts:

“For the purpose of a substantive due process challenge, a zoning regulation is valid if there is a rational relationship between the regulation and the public health, safety, welfare and prosperity and the regulation is not such an unreasonable exercise of the police power as to be arbitrary, destructive or confiscatory. Each case is evaluated according to its particular facts.”

In Conlin v Scio Township the Michigan Court of Appeals stated:

“To have a rational basis thus affording substantive due process, the means of a zoning ordinance must have a real and substantial relationship to the object sought to be attained. Judicial review of the rational basis of the ordinance does not test the wisdom, need, or appropriateness of the legislation, but tests only whether the legislation is reasonably related to a legitimate governmental purpose. The legislation is valid if the legislative judgment is supported by any set of facts which is known or which can reasonably be assumed, even if the facts are debatable. In this case, the plaintiffs asserted that the defendant’s density restrictions violated due process. However, the prevention of overcrowding and the preservation of open spaces are legitimate governmental interests, and restrictions on residential density advance those interests. The defendant’s zoning restrictions were thus rationally related to legitimate goals, and did not offend due process protections.”

Even a quick review of cases related to zoning finds that the Michigan courts have been fairly liberal in what they consider to be governmental purposes. Opinions consistently state that it is not the role of the judiciary to substitute its judgment for that of the community. Although the specific purposes would have to be determined at the time, as they may relate to an individual situation, there is a broad range of legitimate interests from which the Code will be able to draw.

Procedurally, the Code is planned to include a wide range of protections for private property.
owners and will propose a much more accessible and predictable review and approval process.

**Code Protections**

**Approvals**

The final consideration is the protections for property owners that will be built into the code. The first is the approval process. One way to do this is to build an incentive into the form based code for ease of review and approval if all elements of the Code are met. One of the reasons for the specificity of a form based code is to ensure that the desired “form” of the community, within the context of individual neighborhoods, is maintained. If a development plan is submitted that complies with this form, approval is administrative rather than as part of a discretionary process involving a planning commission or board of zoning appeals. (This will be an important element in “selling” the new code to the development community.)

There should also be options for an applicant to be able to depart from the code. Minor departures from the form based code, for example, may also be reviewed and approved administratively, based on relatively objective criteria. More significant departures then, require additional levels of review. Complete departures will require approval from the board of zoning appeals as a traditional variance.

Ultimately, the intent of the review and approval process is to provide administrative remedies to the applicant that can be used to effectively resolve even major areas of departure from the form based code.

**Nonconformities**

Another important part of the code is how nonconforming buildings and uses will be treated, as well as correct some of the current deficiencies.

Nonconforming uses and structures provisions of the zoning enabling acts permits a form based code to establish various levels of nonconformities: “(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.”

This provision may be utilized to prevent the unfair application of the code to existing situations by devising a system whereby unobtrusive nonconformities can be addressed separately from those that may have more serious effects on a neighborhood. The nonconforming provisions can be drafted to cover a wide range of situations related to uses as well as site and building conditions. This will afford the opportunity for additional relief to ensure that properties that do not conform to the form based code are fairly treated.

**Land Use**

The intent of a form based code is to concentrate less on use of land and more on “form” and design. The Code, therefore, in many cases broadens the range of use permitted within the “form” of the building. This permits a broader range of uses in planned areas, while preserving “exclusive” uses in others. Certain development requirements (parking, etc.), again in planned areas, may also be reduced or modified, based on certain criteria. The overall intent is to increase flexibility in use while being somewhat more prescriptive on form.

---

11 Section 208(2) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3208(2). (This footnote, in earlier versions of this flyer, used to cite the following acts, each repealed as of July 1, 2006: Section 3a of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.583a); Section 16 of P.A. 183 of 1943, as amended, (being the County Zoning Act, M.C.L. 125.216); and section 16 of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.286).)
Departures and Variances

As noted earlier, there will be opportunities to permit deviations from the code. Although the exact form will depend on the desires of the community, a typical code will permit “departures” that are, in effect, administrative variances, for relatively minor requirements, as well as including a process for board of appeals’ variances.

Conclusion

No guarantee can be made that a form based code will be free from challenge. However, the use of form based codes, if written to take into consideration of the issues raised in this pamphlet appear to be a proper application of zoning in Michigan. In preparing a form based code the intent should be to design a system that provides a degree of certainty to business owners and neighbors, promotes a range of use and design flexibility to property owners/developers, and institutes protections for those who may feel they are adversely affected.
How to Deal with Accumulated Junk Problems

This publication is designed to help communities address complaints about accumulated junk within their jurisdictions. The issue of junk in the landscape was ranked as the second most severe problem in northeastern Michigan in a recent land use survey.\(^1\) This issue has also been identified among the top problems in many of the public opinion surveys done in northwestern Michigan.\(^2\)

There are several reasons for prohibiting the accumulation of junk and regulating where it is stored. Many types of junk rusting iron, oils, grease, paint from junk and synthetic materials may cause pollution that can damage groundwater (the water from wells). Piles of junk harbor vermin and hold stagnant water for insect breeding.

Junk is unsightly and sends a message to others that the people in an area do not care about their homes or community.

The junk problem (or the perception of a problem with junk) will not be solved simply by passing an ordinance. It will require a coordinated effort on a number of fronts.

---

Authors:
Kurt H. Schindler
WEXFORD COUNTY EXTENSION DIRECTOR, LAND USE AREA OF EXPERTISE
Phone: (231)779-9480
Fax: (231)779-9105
e-mail: schindlk@msue.msu.edu
overland mail:
MSU Extension, Wexford County
401 N. Lake Street
Cadillac, MI 49601-1891

Sarah Genschaw
former LAND AND WATER RESOURCE AGENT, NORTHEAST MICHIGAN
Robert Sylvester “Chips” Wood
former NORMAN TOWNSHIP SUPERVISOR

The authors would also like to thank
Gary Taylor, MSU Extension campus specialist in state and local government, for his review of this material.

---

\(^1\)Sarah Genschaw; *Perspectives on Land Use: A Survey of Land Use Decision-Makers in Northeast Michigan* (East Lansing; Michigan State University Extension, Alpena County, 2000), pp.?

A community can undertake five activities to help reduce the problems associated with accumulated junk:

1. Identify the problem and what the community will support.
2. Institute a municipality cleanup program.
3. Adopt junkyard provisions in a zoning ordinance.
4. Adopt a junk ordinance.
5. Adopt a civil infraction enforcement ordinance.

ACTIVITY ONE:
Problem Identification

The solutions to a junk problem for a particular community will not be the same as those in another community. Several issues need to be discussed: What constitutes “junk”? (See “What Is Junk?” sidebar.) How much junk should people be allowed to retain, and should that volume be more or less depending on the use of the property? How much junk should a business be allowed to retain? What type of cleanup day or solid waste collection should exist?

The first step is to resolve the answers to the above questions and others like them. This should be done through a public process involving as many people in the municipality as possible. There are a number of ways to do this:

- A public opinion survey.
- A mailed questionnaire.
- A community meeting or forum.

Example

Norman Township will be used here to show how one township worked on this problem. Norman Township was used because of the relative success of its efforts and its handling of community problems along the way. Norman is a rural township with a small unincorporated town (Wellston) in Manistee County. Fifty percent of the township is public land in the Manistee National Forest.

Norman Township used a questionnaire that was mailed to residents with the township newsletter. Township officials used the results to shape their program.

An outside facilitator can be obtained through your county Michigan State University Extension office to help run such a meeting, design a survey or provide other similar services.

Regardless of the method used, the important point is that the community must come to a common agreement. The process of reaching that
agreement is important. It helps educate the public on the issue. It also should be done to ensure local elected officials that they have support for the program and ordinances that will be put into place. In some communities, there will be those who refuse to comply and may attempt to organize some form of protest. The early work to ensure public support is an effective way to neutralize those people’s efforts.

A community’s problem with junk did not occur over night. Whatever program is put in place, it will not result in a quick fix. It is within the memory of generations alive today when it was acceptable to bury or burn one’s trash by the house. Later it was acceptable to use a pit-style dump, often operated by the local government. Both these methods of solid waste disposal were low-cost or no-cost solutions to the solid waste problem. Since World War II, an increasing number of chemicals and materials have been used that are toxic or hazardous when discarded on or in the land or burned. As a result, solid waste is now directed toward landfills – expensively engineered lined facilities for proper disposal of the chemicals and materials we use today. Now the cost is much higher, and these engineered landfills may no longer be located nearby. Often the cost and inconvenient distance motivate some to discard trash another way, such as on vacant land or in their yards.

ACTIVITY TWO:
Cleanup Program

Before adopting an ordinance on junk and starting to contact landowners to clean up their property, a community should first consider a non-regulatory approach to the problem. This could be considered a second step. Many successful community cleanup efforts have begun with a cleanup day – prior to enforcement activities.

A cleanup day can be once (spring) or twice (spring and fall) a year. It is a widely publicized day to collect any quantity of material, including large items that often end up as accumulated junk left on land. Residents bring their waste to the appointed place at the designated time. Further organization can include crews to clean up junk from private lands. Clean up of public forest lands is also possible. This should be organized with the local Forest Division office of the Michigan Department of Natural Resources or the local ranger station of the U. S. Forest Service. Crews can also be used to help the poor, elderly or disabled to cleanup their land, also. This would be done with the landowner’s permission and can be an attractive alternative to having the situation become an enforcement issue. Another approach is a mobile cleanup day. Rather than waiting at a central location, the solid waste collection trucks provide curbside collection.

EXAMPLE
Collection Service

In Norman Township, the results of the questionnaire led the township board to set up a location in the township where a solid waste truck would park from 9a.m. to noon each Saturday. Residents would bring solid waste to the garbage truck. Also in the spring of each year a cleanup day was held when any material and any quantity would be collected. Garbage trucks and large roll-off containers were provided for residents’ use. The township organized volunteers to clean up piles of trash that had accumulated on public lands (forests). Volunteers also would help poor, elderly and disabled residents clean up their property.

The idea was to make it easy and simple for everyone to comply with the coming regulations concerning junk accumulation.

The third step will be for the municipality to explore the costs of each so the level of service and its cost is known and can be part of the community discussion (step one).

The fourth step is to explore the various options to pay for the service to be considered. Sometimes a municipality can sign a three-year contract that protects against cost increases.

Regardless, solid waste service with the private sector should always be done through a written, signed contract that has been reviewed by the municipality’s attorney.
Financing can be done a number of ways. A municipality should go through a thought process to select a finance system. Some options will be better suited than others in various communities. Any of the following options, or combinations of these options, should be considered:

**Solid Waste Collection**

Several types of solid waste services are available. Before selecting which will be used in your community, make sure the particular solid waste service complies with your county’s adopted Solid Waste Management Plan. The county plan may not include some of the alternatives listed here.

Any one or a combination of these could be put together for a municipality’s solid waste program. The solid waste program can be considered a part of a junk removal program.

- Municipal curbside collection of solid waste on a weekly or every-other-week basis. This is where the garbage truck drives a route and stops at each home to pick up waste. The municipality purchases its own garbage truck, and the municipal custodian drives the garbage route.
- Municipal contracted curbside collection of solid waste on a weekly or every-other-week basis. The municipality advertises for bids and selects the best bid from a private company to provide the service.
- Franchise curbside collection of solid waste. The municipality adopts a franchise ordinance and licenses one private company the right to collect solid waste in the municipality. This company might be selected on the basis of low or best bid, but under a franchise the homeowner pays for the service directly to the private company. The government service is to achieve efficiency and avoid duplication by having one company provide the service and obtain the best price for its residents through a bid process.
- Municipal-operated transfer station. A central location is set up to store solid waste. Residents bring their waste to the central location. The municipality then takes the material or contracts (best bid) with a private company to transport the solid waste from the transfer station to a landfill.
- Municipal-sponsored central collection service. The municipality contracts (best bid) with a private company to park a garbage truck at a central location on a regular basis. Residents bring their waste on the scheduled day and hours.

Each of these alternatives, or a combination of alternatives, will have various costs from the scheduled parking of a garbage truck (lowest cost) to the regular curbside collection service and cleanup day (most expensive).

**EXAMPLE**

**Paying for the Service**

Norman Township has used several approaches through the years but has settled on a township wide special assessment. Township officials did their homework and figured out the cost for the selected service. The township board went to voters and passed a three-year millage. Then halfway through the second year, costs went up dramatically without warning. The voted millage was no longer enough to cover the costs. When using a voted millage, one can only go back to the voters to ask for more money (politically unpopular) or reduce service (placing the township in the position of collecting a voted millage and providing less service, which is also politically unpopular).

Norman Township was also struggling with the idea that, when using a voted millage, there would be some large landowners who pay lots of tax but generate little solid waste and vice versa. Thus the cost of the solid waste service provided in no way reflected the true cost of that service.

Therefore, Norman Township chose a special assessment funding system because the special assessment system allows the amount of the assessment to be set each year on the basis of known costs.

- Fee for service (collected through separate billing or added to bills that are already being mailed out, such as water/sewer bills). This might be a direct billing system (the garbage truck driver keeps track of the volume of waste collected at each house, that information is passed on to the municipality, and a charge is billed to the homeowner [or added to the water/sewer bill]). This has people paying for the volume of waste they discard.
EXAMPLE

Collection Times & Recycling

Norman Township wanted to have a built-in incentive to conserve and recycle by having residents charged according to the volume of solid waste discarded. But at this time the township chose not to do so because its primary goal was to reduce the amount of trash accumulating on the land and in public forests.

Saturday morning was chosen for the parked garbage truck because the area is predominantly a resort-tourist community. Many people are in the area only on weekends. A spring cleanup day was selected in recognition of the area's culture with a tradition of spring cleaning.

Step six is to publicize the service. The publicity should not just be about the coming cleanup day and solid waste service. It should also indicate that junk accumulation enforcement will be starting after the cleanup day, which is the opportunity to get rid of accumulated junk before enforcement starts. This is also the time to organize volunteer crews for manning the cleanup day site and cleaning crews on public lands and on selected private property.

EXAMPLE

Cleanup Day Publicity & Help

Cleanup day notice was given to all taxpayers by mail. Volunteers with tractors, trucks and trailers were invited to work at the cleanup day location and formed teams to pick up junk on public lands.

The Norman Township Fire Department and Ambulance Service volunteers got permission from landowners to go on to private property to pick up and haul large items to the transfer station in return for a small donation to the fire/ambulance departments. Area restaurant and stores provided food and soft drinks for the volunteers. For the next two years, this process was repeated.

- Paid for from municipal general fund (or another other fund) if there are sufficient revenues to do so.
- Extra voted millage. (The millage system of financing the service might be used because large landowners – possibly reflecting the landowners’ ability to pay – will pay the largest amount for the service.)
- Municipality-wide special assessment. Special assessment is a common and old method of road funding. A special assessment can be used for public safety and public welfare, which includes solid waste management. The special assessment system allows the amount of the assessment to be set each year on the basis of known costs. Special assessments can be set up for the entire municipality, for a smaller area (the defined area that receives the service), for just parcels with homes or businesses, and so on.

The major advantage of a finance system that ties the users’ cost to the volume they discard is that it provides an incentive to throw away less solid waste. This finance system should be considered when there is a reliable, convenient recycling system in place. Then the public can save solid waste costs by recycling. Paying more to discard more can be counterproductive if there is not a recycling system in place. Then the incentive works toward more junk accumulation and might not be a good idea.

Use of public participation is an effective way to decide how to provide each of these services:
- The type of junk collection and/or solid waste service.
- How it will be paid for.
- How the cost is passed on to the user.
- The schedule and location(s) for the above.

At this point the municipality is ready to seek bids for the desired service.

Seeking bids, selecting the bid or municipal service, and signing the contract for service are step five. Be sure to sign a contract with the solid waste contractor.
ACTIVITY THREE:
Amend Zoning to Include Junkyard Provisions

It is not appropriate or realistic to outlaw accumulation of all junk. Businesses must have what some would consider to be junk as a source of material to repair, build and provide its services. One cannot get rid of cars from the landscape unless there is a junkyard where they can go. Farm operations need places to keep various farm implements and to have storage of materials as a source of material to repair and build machinery. Consider an approach that hides junk by screening or requiring it to be kept in a building. Also, a zoning ordinance is the traditional means used to segregate such businesses to areas where the community deems they are appropriate.

To have an effective, enforceable junk accumulation ordinance, there must be a way to distinguish between junk in one’s yard and a legitimate junkyard business. Zoning, in the example provided in this pamphlet, is used to make that distinction. The legitimate junkyard must meet the criterion of having a zoning permit or is recognized as a pre-existing land use. If it does not, then it is junk in one’s yard, which may be subject to enforcement action.

The accumulation of junk on property has been viewed as a threat to property values in an area. Zoning is one of the tools to protect property rights while at the same time protecting community rights. Zoning is a major part of a well-planned program to address the issue of junk accumulation.

Step seven is to amend the zoning ordinance to include certain junk regulations in it.

• If zoning exists: If this program is being done in a village, city, or township with their own existing zoning, then the junk provisions must be in the local government’s zoning ordinance pursuant to the Michigan Zoning Enabling Act.3 A step-by-step checklist of procedure to amend the zoning ordinance: Michigan State University Extension’s Land Use Series “Checklist # 4 For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan”4 is available from www.msue.msu.edu/lu.

• Township with county zoning: If this program is being done in a township that relies on county zoning, then the township must work with the county planning commission so the junk provisions are placed in the county’s zoning ordinance pursuant to the Michigan Zoning Enabling Act.5 A step-by-step checklist of procedure to amend the zoning ordinance: Michigan State University Extension’s Land Use Series “Checklist # 4 For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan”6 is available from www.msue.msu.edu/lu. The township should still adopt the junk accumulation ordinance presented in the next section.

• County with county zoning: If this program is being done by a county with county zoning, then the junk provisions must be in the county’s zoning ordinance pursuant to the

---

3P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). (Prior to July 1, 2006 the following respective citations should be used: P.A. 207 of 1921, as amended, being M.C.L. 125.581 et. seq.; P.A. 184 of 1943, as amended, being M.C.L. 125.273 et. seq.)

4Prior to July 1, 2006 the following respective checklist should be consulted: Land Use Series “Check List # M2 Adoption of a Village or City Zoning Ordinance in Michigan”; Land Use Series “Check List # T2 Adoption of a Township Zoning Ordinance in Michigan”.

5P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). (Prior to July 1, 2006 the following citation should be used: P.A. 183 of 1943, as amended, being M.C.L. 125.203 et. seq.)

6Prior to July 1, 2006 the following checklist should be consulted: Land Use Series “Check List # C2 Adoption of a County Zoning Ordinance in Michigan”.

How to Deal with Accumulated Junk Problems
Michigan State University Extension Land Use Series

Page 6 of 14
November 26, 2007
Michigan Zoning Enabling Act. A step-by-step checklist of procedure to amend the zoning ordinance: Michigan State University Extension’s Land Use Series “Checklist # 4 For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan” is available from www.msue.msu.edu/lu. However, the sample junk accumulation ordinance presented in the next section should be adopted by each township in the county – not adopted as a county ordinance.

- **Zoning does not exist:** If this program is being done in a township, village or city where zoning does not exist, then the sample zoning amendments presented here are not applicable. The junk accumulation ordinance in the next part of this bulletin should be modified before adoption.

There are many different ways for a zoning ordinance to deal with the issue of junk accumulation. The sample provided here is just one. It is written with the following assumptions:

1. The municipality already has site plan review in its zoning ordinance.
3. The municipality’s attorney will review any proposed amendments before they are adopted.

Below are the sample zoning amendments with commentary.

Add the following definition to Section 503 (the section of the zoning ordinance for definitions of words). The definition of “junk,” here is the same as the definition of “junk” in the sample junk accumulation ordinance below.

**JUNK means:**

a. Old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
b. Materials from demolition, waste building materials; and
c. Junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include:

a. Items being held for a customer while parts are being sought for its repair;
b. Items that are classic or antique kept and collected for their antique or collectible value; and
c. Items and junk kept at a licensed Type I, II or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

Add to Section 1020 (a part of the general provisions of the zoning ordinance dealing with environmental issues) the following:

**102. Environmental, Solid Waste.**

**1020. Waste Accumulation and Outside Storage.**

A. It shall be unlawful for any person to accumulate junk on any land except in a permitted junkyard or licensed sanitary landfill or as allowed by ordinance.

Add a section to Article 16 (the part of the zoning ordinance for special use permit specific standards). The sample uses the North American Industrial Classification System titles (formerly Standard Industrial Classification). If the zoning ordinance being amended does not, then the following might be shortened to “junkyards.”:

**1612. Junkyards**


A. Has a Michigan sales tax license.
B. Has records of sales and other transactions which are required by, and whose business falls under the jurisdiction of, P.A. 350 of 1917, as amended (the Second Hand Junk Dealers Act, M.C.L. 445.401 et seq.);
C. Shall be designed to comply with one of the following:

---

7P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). (Prior to July 1, 2006 the following citation should be used: P.A. 183 of 1943, as amended, being M.C.L. 125.203 et seq.)

8Prior to July 1, 2006 the following checklist should be consulted: Land Use Series “Check List # C2 Adoption of a County Zoning Ordinance in Michigan”.
During the process of implementing a junk accumulation cleanup program, two issues will be raised by some:

1. **NIMBY (Not In My Back Yard) syndrome**: The NIMBY syndrome mainly involves large junk storage areas and is a reaction of those nearby who do not want the junkyard business near them.

2. **Private property rights movement**: The private property movement can be oversimplified by those expressing the belief “this is my property and I will do with it what I please, no matter what the consequences are to my neighbors or the community.” Some will claim their land is “federally patented” and, thus, not subject to local or state laws (such as property tax, junk regulations). These claims are made from time to time in various parts of the state but have never prevailed in our courts. The belief is not accurate and the claims not true (Michigan Attorney General Opinion No. 6810, July 6, 1994; 23 Mich 443-444; Stryker v. Goodnow, United States Supreme Court, 123 US 527, 8 S Ct 203, 31 L Ed 194 [1887]).

These are both issues that need to be taken into consideration when trying to find a common solution for the junk problem. It is possible for these issues to result in an organized effort to unseat the municipal elected officials in connection with the junk problem.

One of the continuing dilemmas with the junk issue is how you protect the community from the negative effects of junk while at the same time protect the personal property rights of the minority property owners.
ACTIVITY FOUR:
Adopt a Junk Ordinance

Step eight is to adopt a junk accumulation ordinance.

The following is a sample junk accumulation ordinance. Its usefulness as a sample ordinance is limited to cities, villages and townships. County government in Michigan does not have the general police power to adopt such an ordinance. Counties may only “pass regulations and ordinances relating to county affairs....” Cities, villages and townships have broader police powers, giving them authority to adopt more types of ordinances. The following sample ordinance must be adopted and enforced by a township, city or village.

The sample provided here is written with the following assumptions:
1. The municipality’s attorney will review any proposed ordinances before they are adopted.
2. The municipality has a zoning ordinance with site plan review. (If there is not any zoning, then the following parts of the sample junk accumulation ordinance should be deleted:
   Section 1.02[C],
   Section 4.01[A],
   Section 4.04[A][2] and
   Section 4.04[A][3].
Also, Section 4.02 should be modified.

JUNK ACCUMULATION ORDINANCE

ARTICLE I - GENERAL PROVISIONS

Section 1.01 - Short Title
This Ordinance shall be known and may be cited as the "___[name of municipality] Junk Accumulation Ordinance of _____[date]", and shall be known in the short form as the "Junk Ordinance".

Section 1.02 - Purposes
The purpose of this ordinance is to regulate and control the storage and disposal of junk within the ____[name of municipality], in order to promote the public health, safety, morals and welfare; to protect land values; provide for safety for residents in the area from dangerous junk; and to protect aesthetics. This ordinance is specifically designed to:

A. Define certain terms used herein.
B. Regulate the volume and conditions under which a person may store junk on one's own land.
C. Regulate and coordinate, with the zoning ordinance, the use and operation of junkyards.
D. Provide for enforcement and a system of due process for removal of junk from one's land.
E. Provide for other miscellaneous provisions.

Section 1.03 - Legal Basis [pick one]
[For a township] This Ordinance is enacted pursuant to Michigan Public Act 246 of 1945, as amended, being Michigan Compiled Law 41.181 et seq.
[For a general law village] This Ordinance is enacted pursuant to Michigan Public Act 3 of 1895, as amended, being Michigan Compiled Law 67.1 et seq.
[For a home rule village] This Ordinance is enacted pursuant to Michigan Public Act 278 of 1909, as amended, being Michigan Compiled Law 78.1 et seq.
[For a home rule city] This Ordinance is enacted pursuant to Michigan Public Act 279 of 1909, as amended, being Michigan Compiled Law 117.3 et seq.

ARTICLE II - DEFINITIONS

Section 2.01 - Purpose
For purposes of this Ordinance certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number. The word "shall" is always mandatory and not merely permissive.

---


11County Boards of Supervisors; M.C.L. 46.11.

Section 2.02 - Undefined Words
Any word not defined herein shall be interpreted within its common and approved usage.

Section 2.03 - Definitions
FARM means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees and:
   a. Includes forty (40) or more acres of land in one ownership which is primarily devoted to agricultural use, or
   b. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of two hundred dollars ($200.00) per year or more per acre of cleared and tillable land, or
   c. Has been designated by the Michigan Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of two thousand dollars ($2,000.00) or more.

JUNK means:
   a. Old scrap ferrous or nonferrous materials, rubber, cloth, paper, rubbish, refuse, litter;
   b. Materials from demolition, waste building materials;
   c. And junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include:
   a. Items being held for a customer while parts are being sought for its repair;
   b. Items that are classic or antique kept and collected for their antique or collectable value, and
   c. Items and junk kept at a licensed Type I, II or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

JUNKYARD means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion or recovery of junk, and is a business which is included in the North American Industrial Classification System titles Recyclable Material Wholesalers [42193], Motor Vehicle Parts (Used) Wholesalers [421140] and Materials Recovery Facilities [562920] (formerly the Standard Industrial Classification Manual, classification 5093 and some enterprises in classification 5931), whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act.

PARCEL means any tract or contiguous tracts of land in the same ownership, a condominium unit of the surface of land and associated limited commons, whether one or more platted lots or parts of lots, as owned by the same person.

PERSON means a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

ROAD means a public or private road, highway, street, or right-of-way, which affords the means of ingress or egress to abutting property and the means of travel past a parcel of land.

SOLID WASTE MANAGEMENT ACT means Article II, Chapter 3, Part 115 of P.A. 451 of 1994, as amended (the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 et seq.)
[Annotation: M.C.L. 324.11501 et seq. is formerly P.A. 641 of 1978, as amended (the Solid Waste Management Act, M.C.L. 299.401 et seq.)]

ARTICLE III - JUNK ACCUMULATION

Section 3.01 - On One's Own Land
It shall be unlawful for a person to store or accumulate junk on land other than that occupied by a licensed, permitted junkyard, except in the following manner:
   A. So that no more than ______[select quantity such as two] large items of junk, or the equivalent in volume, -- abandoned, scrap, dismantled or wrecked (including parts of) automobiles, farm equipment, trailers, mobile homes, and all other machines etc. -- are on the parcel;
   B. So that junk is consolidated on one part of the parcel;
   C. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building; and
   D. So that it is not a nuisance.

Section 3.02 - Farms
Section 3.01 of this ordinance shall not apply to farms, provided the storage of junk on a farm meets the following standards:
   A. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
   B. All junk from the operation of the farm is being kept on the premises for possible future use of the farm;
   C. The depositing of the junk is not a violation of the Solid Waste Management Act or constitutes fill in violation of any other state or local law; and
D. So that it is not a nuisance.

ARTICLE IV - JUNKYARDS

Section 4.01 - Junkyard Conformance to Zoning and Municipal Regulation.
Junkyards shall not accept business or do business unless they are:
A. Permitted under a zoning ordinance in effect for the area by use permit, special use permit, planned unit development, or certified as a nonconforming use, and
B. Licensed by a township under authority of P.A. 12 of 1929, as amended (M.C.L. 445.451 et seq.), if applicable, and
C. Shall meet each of the following conditions:
   1. Have a Michigan sales tax license;
   2. Have records of sales and other transactions which are required by and whose business falls under the jurisdiction of P.A. 350 of 1917, as amended (the Second Hand Junk Dealers Act, M.C.L. 445.401 et seq.).

Section 4.02 - Landfills
For purposes of this ordinance, and for purposes of coordinating this ordinance with any zoning ordinances of jurisdiction, the operation of a junkyard shall be considered an accessory use to a landfill, operating under the jurisdiction of the Solid Waste Management Act. Nothing in this ordinance shall require any additional licensing, registration, or permits other than required by the Solid Waste Management Act and the adopted county solid waste plan.

Section 4.04 - Standards
A junkyard shall be constructed, designed and operated according to the following standards:
A. Shall be designed to comply with one of the following:
   1. Shall be set back from parcel boundaries at least [select distance, for example 300] feet, shall be set back [select distance, for example 300] feet from a road right-of-way or [select distance, for example 333] feet from the centerline of a road, whichever is greater; or
   2. Set back the distance required by the zoning ordinance and shall be screened from view of a road and from adjacent parcels by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above; or
   3. Set back the distance required by the zoning ordinance and shall not be visible from a road or from adjacent parcels.
B. Shall be designed and operated so that noise, under normal operational circumstances, shall not be over [fill in number such as 60 decibels (about the same as people talking in a room)] decibels at the boundary of the parcel and at the nearest road.
C. Shall not be operated so that burning or incineration of junk or any other material results in smoke; other emissions and effluent shall meet or exceed all applicable state and federal air pollution, surface and groundwater quality standards.
D. Shall comply with Public Act 219 of 1966, as amended (the Control of Junkyards Adjacent to Highways Act, M.C.L. 252.201 et seq.); Public Act 350 of 1917, as amended (the Second Hand Junk Dealers Act, M.C.L. 445.401 et seq.); the Solid Waste Management Act; and, if applicable, Public Act 12 of 1929, as amended (township licensing of junkyards, M.C.L. 445.451 et seq.), if applicable.
E. Shall not operate a landfill, as defined in the Solid Waste Management Act,
F. Shall be more than [fill in distance such as 1,000] feet from a school, campground or park.
G. Shall be restricted to operation during the hours of [fill in numbers] to [fill in numbers], [fill in days] through [fill in days].

ARTICLE V - GRANDFATHERING

Section 5.01 - Inventory
Upon the enactment of this Ordinance, [specify the office responsible] shall cause to be made an inventory of all junkyards presently in business in the [name of municipality]. Such inventory shall include a site plan of each junkyard.

Section 5.02 - Continuance
Any junkyard found to be in business in [name of municipality] at the time of enactment of this ordinance shall be able to continue in business as a junkyard on the parcel of land, or portion of the parcel of land, where it is presently located except as noted below in sections 5.03 and 5.04 of this ordinance.

Section 5.03 - Abandonment, Relocation, Enlargement
A junkyard in business under Section 5.02 of this Ordinance, which
A. Ceases to operate for one year or more;
B. Enlarges so as to occupy more land than what was used at the time of enactment of
this ordinance as shown on the inventory site plans made pursuant to Section 5.01 of this ordinance; or

C. Relocates to different land than what was used at the time of enactment of this ordinance, as shown on the inventory site plans made pursuant to Section 5.01 of this ordinance;

shall be required to comply with all aspects of this ordinance.

Section 5.04 - Required Improvement to Existing Junkyards.

Any junkyard in business at the time of enactment of this ordinance shall, by __ fill in a date, for example 2 years after this ordinance is adopted, Cause to have the junkyard screened from view from a road and from adjacent parcels by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above so it shall not be visible from a road or from adjacent parcels.

ARTICLE VI - ENFORCEMENT, PENALTIES, SAVINGS CLAUSE

Section 6.01 - [Option #1] Enforcement Procedure

The ordinance enforcement officer shall be responsible to enforce this ordinance. Anyone, including the ordinance enforcement officer, may file a complaint concerning an alleged violation of this ordinance. Upon receipt of a complaint, the following optional procedure for enforcement may be used:

A. The ordinance enforcement officer will determine whether a violation exists. If a violation does not exist, the matter shall be dropped.

B. If a violation is thought to exist, then:
1. As a first priority, the person who deposited the junk shall be contacted for further enforcement actions.
2. As a second priority, the person who, by evidence found in the junk, is determined to have owned, or formerly owned the junk, shall be contacted for further enforcement actions.
3. As a third priority, if one can not determine who deposited or owned the junk, the person who is the owner of the land, as shown on the latest tax roll where the junk is found, shall be contacted for further enforcement actions.

C. The person shall be contacted in an attempt to obtain voluntary compliance with this ordinance. If the violation is corrected, the matter shall be dropped.

D. If a violation continues to exist and voluntary compliance is not likely, the ordinance enforcement officer may, at his option, notify the person that a violation exists. Said notice shall
1. Explain the violation and cite the appropriate section of this ordinance which is being violated;
2. Explain how the violation may be corrected;
3. Provide for a period of time in which the violation shall be corrected;
4. Be delivered to the person by first class certified mail, with a return receipt, or by personal delivery by a police officer with an affidavit of service.

E. After the provided period of time, it shall be determined if a violation still exists. If it is found the violation no longer exists, the matter shall be dropped.

F. If the violation is still thought to exist, the ordinance enforcement officer shall prepare a citation (ticket) for a civil infraction.

Section 6.02 - [Option #2] Civil Infraction

A. Nuisance Per Se: Any violation of this is hereby declared to be a nuisance per se.

B. Authorized Local Official: The ___[insert title of official who is the Ordinance Enforcement Officer]___ is hereby designated as the authorized local official to issue municipal civil infraction citations.

C. Violations; Civil Infractions: Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated, voluntary association, who violates any provision of this Ordinance shall be guilty of a civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the ____[insert the number of the respective district court] Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:

D. First Violation Notice: Unless immediate action is necessary upon the determination by the Township Enforcement Officer that there is a danger to the public health, safety or welfare, the person violating


13 Often the ordinance enforcement officer is the zoning administrator. Other times it is another employee of the municipality. Sometimes it might be the elected constable, marshal or similar position. One should consider not placing the responsibility with an elected official (supervisor, mayor, president, clerk, etc.). It is difficult to say “no,” often necessary in enforcing an ordinance, while at the same time trying to win over someone’s vote when that individual is running for office.
this Ordinance shall be served personally or through first
class mail with a notice of violation. That notice shall
require that the violation be corrected within thirty (30)
days of the notice;
E. Citation: Upon failure to correct the violation
or in cases when immediate action is necessary, a
person violating this Ordinance shall be issued a citation
requiring his or her appearance in the ___[insert number of the
respective District Court] Judicial District Court.
1. A person who violates this Ordinance shall be
guilty of a civil infraction and shall be fined not
less than $150.00 nor more than $500.00 plus
costs.
2. A person who violates this Ordinance and has
been previously found responsible or
admitted responsibility for a violation of this
Ordinance in a civil infraction proceeding
within one (1) year immediately preceding the
issuance of the second citation, shall be fined
not less than $300.00 nor more than $500.00
plus costs.
3. A person who violates this Ordinance and has
been found responsible or admitted
responsibility for violation of this Ordinance in
a civil infraction proceeding on at least two
prior occasions within two (2) years
immediately preceding the issuance of the third
or later citation, shall be fined $500.00
plus costs.
F. Violations; Civil Action: The legislative body,
the Zoning Administrator, the Board of Appeals, the
Attorney for the municipality, or any owner or owners of
real estate within the zoning district in which such
building, structure, or land is situated, may institute a
nuisance, injunction, mandamus, abatement or any other
appropriate action or actions, proceeding or proceedings,
to prevent, enjoin, abate or remove any building or
structure or use which has been erected, constructed,
reconstructed, altered, converted, maintained or used in
violation of this Ordinance.
G. Cumulative Remedies: The rights and
remedies provided herein are cumulative and in addition
to all other remedies provided by law. The issuance of
a municipal civil infraction citation and a finding or
admission of responsibility for violation of this Ordinance
in a civil infraction proceeding shall not bar a civil action
seeking equitable relief beyond the jurisdiction of the
___[insert number of the respective District Court] Judicial District Court
under Section 4 hereof, arising from the same violation.

Section 6.03 - Saving Clause
The provisions of this ordinance are hereby
declared to be severable, and if any clause, sentence,
word, section or provision is declared void or
unenforceable, for any reason by a court of competent
jurisdiction, the remaining portions of said ordinance
shall remain in force.

Section 6.04 - Effective Date
This ordinance shall take effect sixty(60) days after
adoption by ____[insert name of elected body of the municipality]. All
ordinances or parts of ordinances in conflict with any of
the provisions of this ordinance are hereby repealed.

ACTIVITY FIVE:
Adopt a Civil Infraction
Enforcement Ordinance

Once the zoning ordinance is amended, the
junk accumulation ordinance is adopted and the
cleanup day has passed, there may still be a need for
enforcement. Thus step nine is to follow through
with enforcement as needed.

If not already done, step 10 is to adopt a civil
infraction enforcement ordinance. Sample civil
infraction enforcement ordinances are available
from the Michigan Townships Association14 and the
Michigan Municipal League.15

A violation of an ordinance such as a junk
ordinance may only be treated as a civil infraction if
the ordinance makes it one. The sample above does
that.

One of the major advantages of the civil
infraction method of enforcement is that the
municipality has the ability to obtain a lien against
the property for any unpaid damages and fees. This
means the court can authorize a municipality to
clean the property or correct the violation and to
recover the costs of doing so through a property
lien.

A second advantage of civil infraction
enforcement is the ability to obtain an order from
the district court enforcing the directive to clean up
or comply.

14Michigan Townships Association, 512 Westshire Drive, P.O.
Box 80078, Lansing, MI 48908-0078. Phone: (517)231-6467; fax:
(517)231-8908; www.mta-townships.org.

15Michigan Municipal League, 1675 Green Road, P.O. Box
1487, Ann Arbor, MI 48106. Phone: (734)662-3246; fax: (734)662-8083;
www.mml.org/.
A third advantage of civil infraction is that this approach removes the case from criminal proceedings. With criminal prosecution, one must prove the violation “beyond a reasonable doubt”. When a civil infraction approach is used the municipality must show by “a preponderance of evidence” that the violation took place.

A civil infraction is handled similarly to a traffic ticket. That process is similar to criminal prosecution, takes place in district court and has a more active role for the enforcement officer. The municipality appoints or hires an enforcement officer. Often, but not always, that individual is the zoning administrator.

The enforcement officer – the “authorized local official” – issues the ticket. If the violator pleads “responsible” or “responsible with an explanation” before the district court magistrate, the court imposes a sentence immediately. If the violator pleads “not responsible”, either an informal or formal hearing will be scheduled by the court. The municipality and its attorney (if the court knows who the attorney is) will be notified of the hearing.

At the hearing, the court will hear testimony from the enforcement officer and review the photos, letters, and other exhibits prepared by the enforcement officer. The violator will also be given an opportunity to testify and offer whatever evidence he or she may have in defense. At the conclusion of the hearing, the judge will announce a decision.

The court may craft a final order that speaks specifically to the defendant’s actions and orders the correction of any violations that are found to exist. This order is backed by the contempt power of the court, and if the defendant fails to comply, the court may authorize the municipality itself to fix or correct the violation and place a lien against the property to recover the cost.

EXAMPLE Enforcement

In Norman Township, officials did not just start enforcing after the ordinance was adopted. The township supervisor met with a property owner who had a very large collection of old autos. His property was also identified as a major problem on the basis of complaints received. The purpose of the meeting was to propose that if the property owner brought his land into compliance with zoning requirements for a junkyard (buffering, screening, etc.), then the township supervisor promised to help him get more junk cars and make arrangements for cars he didn’t need and others in the community to be purchased for scrap. The landowner agreed.

The supervisor then contracted with a vender to pick up the cars and dispose of autos throughout the township. This was done without cost to those with junk cars. The vender needed a minimum number of automobiles before he would come into a community for this purpose. The vender also needed a temporary location to set up his operation. Many of those collected cars went to the property owner who brought his junkyard into compliance with the township zoning. The property owner whose junkyard was now in compliance became the location for disposal of junk motor vehicles after the vendor was done and had left the area.

Using this method, early public involvement, and the cleanup day before enforcement started, 95 percent of the problem was solved. The remaining 5 percent received violation notices, about 3 percent were written tickets, and an even smaller number actually went to court.

To manage an enforcement effort, a municipality might consider creating a list of junk accumulation problems, then prioritize the list with worst problems listed first and start enforcement work on only the first two. Start work on the third one on the list only after one of the first has been resolved, and so on.

In this manner, the municipality is not overwhelmed with too many cases going on at a time.

[November 7, 2008; C:\Documents and Settings\Kurt Schindler\My Documents\wp\BulletinsMSUE Westford\pamphlet\JUNK.wpd]
How to Set Permit Fees

Keep it Simple
The following might be used as an outline for a permit fee schedule. The idea is to keep it simple, with as few different fees as possible. It is assumed all land use permits, special use permits, planned unit developments (PUDs), appeals, will have site plans. A fee is established for each of the following:

- Land Use Permit
- Land Use Permit (minor: fence, deck, sign, etc.)
- Special Use Permit
- Planned Unit Development
- Appeals (variance)
- Petition to amend the zoning ordinance
- After the Fact Permit multiplier (X2 or X3)
- Special Meetings
- Land Division Fee

To Figure out the Fee Amount
The following are steps which might help in figuring out what should be charged for permits:

**FIRST**: Use the above list of zoning permit types. Read through the zoning ordinance to determine if there might be others which are unique to your municipality.

**SECOND**: Estimate the actual costs to issue one permit, for each type listed. Generally, the work involved and the cost to issue one permit will be the same, regardless if it is commercial, residential, or another type of use. Thus one should expect the same fee regardless of the kind of use for the same type of permit. Actual costs can include all or some of the following, and may include more:

- cost of forms plus copies.
- cost of keeping zoning permit files
- cost of paying the zoning administrator
- cost of mileage to make inspections (paid to the zoning administrator)
- cost of meetings (mileage and per diem)
- cost of office space
- cost for consultant (engineer, planner or other professional) review
- legal costs (paid to a lawyer)
- costs of publishing, mailing, etc. the notices of applications, meetings, hearings
- administrative and overhead costs
- some funds set aside for a legal defense/prosecution fund.

<table>
<thead>
<tr>
<th>Cost of forms and copies</th>
<th>Cost of keeping zoning permit files</th>
<th>Cost of paying the zoning administrator</th>
<th>Cost of mileage to make inspections (paid to zoning administrator)</th>
<th>Cost of meeting(s) (mileage and per diem)</th>
<th>Cost of office space</th>
<th>Cost for consultant review (engineer, planner, or other professional)</th>
<th>Legal costs (paid to a lawyer)</th>
<th>Costs of publishing notice</th>
<th>Cost of mailing notices.</th>
<th>Administrative and overhead costs</th>
<th>Funds set aside for legal defense fund/prosecution fund</th>
<th>Total (total actual costs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Permit</td>
<td>Minor Land Use Permit (fence, deck, sign, etc.)</td>
<td>Special Use Permit</td>
<td>Planned Unit Development</td>
<td>Appeals</td>
<td>Petition to amend the zoning ordinance</td>
<td>After-the-fact Permit multiplier</td>
<td>Special meetings</td>
<td>Land Division Fee</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
THIRD: Once the full cost of issuing each type of permit is known then the following decision should be made. There is no right, or wrong, answer. The issue is a policy decision.

A. If the following statement is agreed with:
   “The zoning ordinance and land division review benefits the person buying the permit(s) and only the user should have to pay for the permit.”
then, the cost figured out, above, should be the cost for each permit.

B. If the following statement is agreed with:
   “The zoning ordinance and land division review benefits everyone in the municipality and the cost of the permit(s) should be paid by everyone.”
then, there should not be a fee, or the fee should be zero dollars ($0). The cost of administering the permit system should be paid for by the municipality general fund.

C. If the following statement is agreed with:
   “The zoning ordinance and land division review benefits everyone in the municipality and has a particular benefit for the person buying the permit. Therefore the cost of permit(s) should be shared between everyone (general fund money) and the person buying the permit(s).”
then, the proposed fee schedule must reflect what percent of the cost should be part of the permit fee, and what percent should be covered by the municipal general fund. The job, then, becomes deciding what percent of the permit cost should be covered by the permit fee. This is a policy decision, which may have different answers in different municipalities. There is not a “right” or “wrong” answer. It may help to survey surrounding municipalities (or all municipalities in your area of the state) to have an idea what other municipalities are charging. The percent of the permit cost paid for by fee might also be different for different types of permits.

FORTH: Put together a proposed fee schedule and have it placed on the agenda of the next county board, township board, village or city council meeting. The following might be a work sheet for this purpose.

<table>
<thead>
<tr>
<th>Type of Permit</th>
<th>Total Cost</th>
<th>Percent covered by fee</th>
<th>Proposed fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Permit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land Use Permit (minor: fence, deck, sign, etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Use Permit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planned Unit Development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeals (variance)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Petition to amend the zoning ordinance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After the Fact Permit multiplier (X2 or X3)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Meetings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land Division Fee</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
FIFTH: The county board, township board, village or city council adopts the fee schedule. The fee schedule should always be in writing. (If a fee is never adopted, or is not written, then the fee for that permit is zero ($0). The cost of a permit should be fixed. A variable fee, or a fee/deposit based on “actual costs” is not a good idea. If done properly, the fees established will reflect an average of the actual costs of permits, and in the long run will balance out. The following table can be used to present the fee schedule.

<table>
<thead>
<tr>
<th>Type of Permit</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Permit</td>
<td></td>
</tr>
<tr>
<td>Land Use Permit (minor: fence, deck, sign, etc.)</td>
<td></td>
</tr>
<tr>
<td>Special Use Permit</td>
<td></td>
</tr>
<tr>
<td>Planned Unit Development</td>
<td></td>
</tr>
<tr>
<td>Appeals (variance)</td>
<td></td>
</tr>
<tr>
<td>Petition to amend the zoning ordinance</td>
<td></td>
</tr>
<tr>
<td>After the Fact Permit multiplier (X2 or X3)</td>
<td></td>
</tr>
<tr>
<td>Special Meetings</td>
<td></td>
</tr>
<tr>
<td>Land Division Fee</td>
<td></td>
</tr>
</tbody>
</table>

There will be times when it is desired to waive fees because someone is too poor to afford to pay a fee, it is a local civic or volunteer organization, and so on. The ability to do so should be specified in the zoning ordinance. (See the sample, below.)

There will be times when a project comes along where costs are much more than anticipated or considered much more than the “average” used to compute the fees, above. In those cases it is possible to require a deposit to cover those unusual additional costs. This possibility needs to be specifically spelled out in the zoning ordinance (not simply adopted as part of a fee schedule) and requires a formal finding why additional costs are expected, action by the planning commission, establishing a budget, due process, bookkeeping, and refunding any unused portion of the deposit.

This would normally happen with complex types of permits, such as those for PUDs, special use permits, or zoning amendments.

The following is one example of language in the zoning ordinance to cover this situation. It is not the only way this might be handled. This example is written with the following assumptions:

1. The section numbering system follows the standard system of codification that is the sample presented in the Michigan State University Extension’s Organization and Codification of a Zoning Ordinance available at www.msue.msu.edu/lu.
2. All amendments (including this one) are reviewed by the municipality’s attorney before it is adopted.

The process to amend the zoning ordinance is listed as a series of steps in Land Use Series “Check List # 4; For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan” available at www.msue.msu.edu/lu.
8240. Permit Fees

A. The legislative body shall from time-to-time establish and publish a schedule of fees for the operation of this Ordinance, including but not limited to permits, conditional use permits, special use permits, planned unit developments, site plan reviews, demands for appeals, requests to consider amendments to this Ordinance, exhibited service by request or due to after-the-fact processing.

B. The fees shall have different categories for different types and shall be designed within in each category to cover up to, on average, all costs associated with the processing of the service provided for the fee.

C. When the Administrator first receives an application which may be of such a nature and complexity that review will be more involved than normal and that additional fees may be required, the Administrator shall act to declare that is the case and refer the issue to the Planning Commission. The Commission, by motion, may find the application requires the assistance of experts in review of specified aspects or issues of the application.

1. Additional costs are when:
   a. The complexity of reviewing the application, in the judgement of the Commission, requires hiring expertise beyond that of the Commission or zoning administrator, such as but not limited to hiring the services of an attorney; professional planner; engineer; architect; land surveyor; environmental, traffic, marketing, and economic development experts.
   b. The complexity of reviewing the application requires an abnormal amount of additional time by the zoning administrator.
   c. The complexity or controversy of the application results in the Commission being in session (holding meetings, reconvened meetings, hearings) that is more than two times on the application, or holding any special meeting on the application.
   d. The additional review of the application is exclusively for the proposed development, and if not then the additional fee shall reflect the proportion amount for the proposed development and other items.

2. Upon adoption of the motion requiring additional fee, review of the application shall stop until the applicant has paid a minimum additional fee of one thousand (1,000) dollars. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds in a separate fund. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section ____ of this Ordinance.

3. The Commission shall use the additional fee to contact and select necessary experts, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s).

4. At the next meeting of the Commission, the Commission, or prior to the next meeting of the Commission the zoning administrator in consultation with the Chair of the Commission, shall:
   a. establish a budget for the services of the expert(s), meeting costs, zoning administration expenses;
   b. send an invoice to the applicant for the remaining budgeted amount, with an explanation the applicant shall provide the Commission within ten (10) days, in writing, that (1) he will withdraw the application, or (2) will proceed and pay the balance of the additional fees based on the budget.
   c. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds in the same fund established in section ____ of this Ordinance. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section ____ of this Ordinance.
   d. The Commission shall use the additional fee to pay the services of the expert(s), meeting costs, zoning administration expenses.

5. Any additional actual costs incurred in processing such application shall be paid before permit is issued, and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual cost (so not additional revenue is generated) of processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the account upon conclusion of the application, those monies shall be returned to the applicant.

6. The deposit required by this section is in addition to any security required elsewhere in this Ordinance.
D. Other than provided for additional costs provided for above, no part of the fee shall be refundable.
E. On a case-by-case basis legislative body may waive part or all of any fee if the applicant is found to be indigent, an agent of the local government, or a non-profit civic, service, or volunteer organization in the local government.

Zoning Administrator Pay

The zoning administrator should be paid a wage (per hour) or salary (per year). The zoning administrator should not be paid on the basis of a per permit, or a percent of permit fees collected. No matter how little the pay is, it is a job, and the zoning administrator is an employee of the municipality.
How to Take Minutes for Administrative Decisions

This bulletin discusses what should be in a governmental body’s minutes. The contents of minutes will differ, depending on which governmental body the minutes are for. This is a general document; communities may wish to tailor its recommendations to their specific situations after a review by legal counsel. For purposes of this discussion, there are two types of governmental bodies: legislative or elected bodies (e.g., township boards of trustees, village and city councils and county boards of commissioners) and administrative bodies such as zoning boards of appeals and planning commissions. This bulletin is about the second type of body: an administrative board.

Material on how to take minutes and the content of minutes for legislative or elected bodies is available from the Clerks Association of the Michigan Association of Counties, the Michigan Townships Association, and the Michigan Municipal League.

Some Basic Concepts

Minutes for an elected board are often very brief, containing little discussion and little more than the text of motions. Some include only motions that have been adopted. Minutes for an administrative body should include much more detail. To understand this, first, it is helpful to understand the difference between a legislative body and an administrative body. Legislative bodies adopt policy, adopt ordinances, and have a degree of autonomy and governmental

Author:
The Honorable Charles D. Corwin, Judge of the 28th Circuit Court (Wexford and Missaukee Counties)
Wexford County Courthouse
437 E. Division Street
Cadillac, Michigan 49601

Kurt H. Schindler, County Extension Director
MSU Extension, Wexford County
401 N. Lake Street
Cadillac, Michigan 49601-1891
Phone: 231-779-9480
Fax: 231-779-9105
E-mail: schindl9@msu.edu

The authors would like to thank Mark A. Wyckoff, President of Planning & Zoning Center, Inc. for assistance in preparation of this bulletin.


2City and village councils can, according to statute, also act as zoning boards of appeals. It is not clear if this would be upheld upon court challenge when reviewed against separation of powers in the Michigan Constitution. If a city or village council also acts as the zoning board of appeals, it should hold those meetings separately and keep a separate set of minutes as the board of appeals. It should also act as, and keep minutes as an administrative body, rather than an elected body.
immunity when acting on legislative matters, and a legislative body’s actions are subject to legal tests that are ordinarily applied to legislation. When a legislative body acts on legislative matters, it is not important to document who said what, so a record is not kept about such things. Legislative bodies are not required to base legislative decisions on proven facts or to state their reasons. If a community finds itself in a courtroom, the presumption is that the action of a legislative body is correct and the burden is on the other party to show the legislative body’s action was not proper.

In contrast, the decisions of an administrative body are subject to much more rigorous review in a courtroom. The administrative body may have a greater burden to defend its decision. Administrative bodies in a courtroom do not always start out with the presumption that their decisions are correct.

Further, if an administrative decision is challenged, the court’s review will be of the facts and reasons stated in the record (minutes). There is no opportunity for an administrative body to add more facts or reasons than what appears in the minutes. If the required items are not in the minutes, they cannot be used in the defense of the administrative body’s decision.

If an administrative decision is challenged, the court’s review will be of the facts and reasons stated in the record (minutes). There is no opportunity for an administrative body to add more facts or reasons to what appears in its minutes.

If the minutes and record are inadequate for the court to make a determinative review, the zoning statutes require the court to order further proceedings before the administrative body. That means the administrative body may have to visit the issue again. For a couple of reasons, that task should be viewed as an unpleasant experience to be avoided. First, the issue is controversial (remember, it went to court). Second, it will be even hotter with more public attention the second time around.

Some Administrative Bodies

- Planning commission
- Zoning or planning board
- Zoning board of appeals
- Park commission/authority
- Board of review (tax)
- Department of public works (for some decisions)
- Road commission (for some decisions)
- City/village street authority (or the council, if acting in that capacity)
- Transit authorities (airports, bus, etc.) (for some decisions)
- Public health board (for some decisions)
- Health code appeals board
- Construction board of appeals
- Soil and sedimentation board of appeals
- Historic district board

and others (including elected bodies acting on administrative matters such as special land uses, site plans for zoning, land divisions, and administrative matters related to other ordinances).


5 Farah v. Sachs, 10 Mich App 198; 157 NW2d 9 (1968); Lafayette Market Co. v. Detroit, 43 Mich App 129; 203 NW2d 745 (1972); Lorland Civic Ass’n v DiMatteo, 10 Mich App 129; 157 NW2d 1 (1968)

6 Section 502(4) and 606(2) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3502(4) and 125.3606(2)). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 23(3) of P.A.183 of 1943, as amended (being the County Zoning Act, M.C.L.125.223(3)); section 23a(2) of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.293a(2)); and Section 5(12) of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.585(12)).)
When reviewing an administrative decision, the court applies a number of tests. One of the tests is to review the record “to determine whether the result was based upon competent, material and substantial evidence on the record as a whole.” This language comes from the 1963 Michigan Constitution, Article IV, on the judicial branch of government providing instruction on review of administrative actions (Article VI, §28). It is a three-part test: (1) the decision was based on materials that are sufficiently substantiated to be found to be true (having substance or capable of being treated as fact, not imaginary); (2) the amount of evidence supporting the administrative body’s decision outweighs the material supporting other possible decisions; (3) and the review is based on the entire record (minutes, application, attachments and so on), not a review of just part of the record.

The above test is just one of the legal tests a court uses in reviewing an administrative decision, though it is the only one relevant to the task of taking minutes.7

The decision in Macenas v Village of Michiana8 set out to further clarify the above standard of review:

Where the facts relating to a particular use are not in dispute, the legal effect of those facts, that is, how the terms of the [zoning] ordinance are to be interpreted in relation to the facts, is a matter of law, and the Courts are not bound by the decisions of administrative bodies on questions of law.9

Where the primary question is whether the [zoning] ordinance provision applies in the given situation, there are two questions for determination:

• What are the facts which, taken together, can be said to describe the situation?
• How does the ordinance apply to those facts?

Determination of the first question is for the [zoning appeals] Board to decide. If its determination with respect to this is reasonable and is supported by

---

7The other tests are (a) Complies with the constitution and laws of the state, (b) Is based upon proper procedure;(c) Is supported by competent, material, and substantial evidence on the record; (d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals. See Article 6, Section 28 of the 1963 Michigan Constitution; and section 606(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3606(1)). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 23(2) of P.A.183 of 1943, as amended (being the County Zoning Act, M.C.L.125.223(2)); or Section 23a(1) of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.293a(1)); or Section 5(11) of P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.585(11)).


substantial evidence in the record, even though debatable, it should be accepted by the court of review. Determination of the second question, i.e., what the ordinance means in relation to the facts, is a question of law for the courts to decide.\textsuperscript{10}

As a result, the job of taking minutes for an administrative body involves more effort and more detailed content than taking minutes for a legislative body when it acts on legislative matters. When a legislative body acts in an administrative capacity, however, it is bound by the procedures and standards in the ordinance the same as an administrative body. It also needs the minutes on administrative actions to be very complete. When a legislative body makes a final decision on a special land use permit, site plan or land division, it is acting in an administrative capacity. Taking complete minutes and keeping a good record can be an important strategy to improve a municipality’s position if the decision is challenged in court and, better yet, may enable it to avoid being taken to court in the first place. A number of important items should be included in minutes, and other items should be attached to or filed with the minutes. The minutes and items attached or filed with the minutes become “the record.”

Some matters discussed at an administrative body meeting may not be important. Therefore, simply providing a transcript of the meeting – recording every word – may create minutes that are longer and more extensive (and thus expensive to do) than they need to be. Also, a transcript may still not provide everything that should be in the record. Preparation of a transcript is not always required by courts.\textsuperscript{11} Below is an outline of what the minutes and record should contain.

### Minutes Content

In general, minutes should include enough information for a person who did not attend the meeting to get a reasonable idea of what happened at the meeting. Specifically, the minutes should include the following elements for each administrative action taken:

- Who spoke and a summary of what was said.
- A statement of the approval being requested (e.g., special land use permit, variance, subdivision, land division, etc.).
- The location of the property involved (tax parcel number and description, legal description and common description).
- What exhibits were submitted (list each one, describe each, number or letter each, and refer to the letter or number in the minutes).
- What information was considered (summary of discussion by members at the meeting).
- The administrative body’s findings of fact.
- Reasons for the decision that has been made. (If the action is to deny, then each reason should refer to a section of an ordinance that would be violated or not complied with.)
- The decision (e.g., approve, deny, approve with modification).
- A list of all required conditions to the approval or improvements (and if they are to be built up front, name the type of performance security to be used), if any.
- List all changes to the map/drawing/site plan submitted. (Sometimes it is easier to use a black felt-tip pen and draw the changes on the map indicating what was applied for, rather than listing the changes. Do not use different

\textsuperscript{10}Macenas, 395 (citing 3 Rathkopf, The Law of Zoning & Planning (4\textsuperscript{th} ed) § 42.07, pp. 69-70) Brackets and emphasis added.

\textsuperscript{11}Jani gian v. Dearborn, 336 Mich 261; 57 NW2d 876 (1953).
colors. The map will most likely be photocopied, and colors on the copy will not show at all or will just be black.

- Make the map/drawing/site plan part of the motion (e.g., "...attached to the original copy of these minutes as appendix ‘A’, and made a part of these minutes...").

Send a copy of the final action to the applicant by mail or registered mail (return receipt) or personally deliver (and have him or her sign a statement saying he or she received it, or have a municipal official sign an affidavit saying it was delivered/mailed). If the latter two options are used, there will be no doubt the applicant got a copy of the final action and knows what happened and what conditions, changes, etc., must be met, if any. This is important if enforcement is needed in the future. Do not assume that because a person was at the meeting, he/she knows what was decided.

The findings of fact, reasons, and the decision can be handled one of two ways. First all three can be included as part of a motion or motions. Second, the findings of fact may simply be in the part of the minutes that summarizes the discussion, with the decisions and reasons included in a motion or motions. There are advantages and weaknesses to both approaches.

If the findings of fact are handled as part of the minutes that summarize the discussion, the advantage is the minutes will include each point brought up in the debate. The minutes should also reflect enough of the debate to clearly indicate which statements made in discussion became, by consensus, the administrative body’s list of facts it found to be true and germane to the issue, the “findings of fact.” This is effective if there is an efficient minute taker (such as an office secretary using a laptop computer or shorthand). Another disadvantage is all the statements made in debate would be summarized in the minutes, including some points that do not support the conclusion. (Some may argue this is not a disadvantage. It simply accurately reflects many issues do not have clear black and white answers and judgment is made on the basis of the preponderance of information available.)

The other method is to include the findings of fact, reasons, and conclusions only within the motion or motions. All three elements can be made as a single motion or handled separately so the findings of fact, reasons, and conclusions are handled as two or three separate motions. The advantage is the administrative body goes through the process of agreeing on the final wording of the motion and, as a result, makes more formal findings of fact. The disadvantage is the motions are more complex and lengthy. A complex, lengthy motion is difficult to write on the fly during a meeting. This difficulty can be overcome if staff (planner, zoning administrator, consultant) draft a motion to approve and a motion to disapprove prior to the meeting. This draft of possible pro and con motions can then be edited to suit the administrative body during the meeting. Many municipal attorneys do not support this approach because it often implies to citizens that a result was predetermined, and rewording a previously prepared motion on the spot can result in unintended problems or ambiguities.

A third possible option is to use a combination of both of these—i.e., summarizing discussion to reflect some of the sorting-through statements that led to the findings of fact, and recording the motion or motions containing all three elements: findings of fact, reasons and conclusion/decision.

A fourth option often used in communities with adequate planning/zoning staffs is to accept a staff report as the basic findings of fact. This is possible only when such a report is complete and includes analysis but is without a recommended action.

For purposes of formalizing this part of the minutes, one section of an administrative body’s rules of procedure (i.e., bylaws) states what such motions should contain. The following sample, from a zoning appeals board, could be modified for any administrative body.

4. 10 Motions.
Motions shall be reiterated by the Chair before a vote is taken.
A. Motions dealing with an appeal or variance concerning Anytown zoning ordinance shall be stated as one, two, or three motions which collectively contain each of the following parts:

1. The list of facts, which is the information pertinent to making a decision on the matter, structured as a "findings of fact" on the case (including parcel owner, parcel legal description, what is applied for).

2. The rationale, i.e., reasons for why the conclusion was made. The rationale shall contain at a minimum:

   a. For Dimensional Variances:
   A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
   
   (1) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic difficulty.
   
   (2) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
   
   (3) That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

   (4) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

   (5) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

   b. For Use Variances: Under no circumstances shall the Appeals Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

   [OR, this second option, below, is available only to cities and villages, townships and counties that, as of February 15, 2006 had a zoning ordinance provision that expressly authorized granting use variances (e.g., uses the phrase “use variance” or “variances from uses of land”), or to a township and county that actually granted a use variance(s) before February 15, 2006.]

   b. For Use Variances: A use variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that undue hardship exists by showing all of the following:

   (1) The building, structure, or land cannot be reasonably used for
any of the uses permitted by right or by special use permit in the zoning district in which it is located.

(2) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic hardship.

(3) That the proposed use will not alter the essential character of the neighborhood.

(4) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

[END OF USE VARIANCE OPTION.]

(Note: All four of the above points must be found true, or in the affirmative, or a variance shall not be granted.)

c. Other specific standards for variances that may be in the Anytown Zoning Ordinance.

d. An explanation of how the facts support the conclusion.

(3) The conclusion or decision.

a. Any conditions upon which a variance may be issued, if applicable. Conditions shall be listed in detail and based on regulations or standards already in Anytown Zoning Ordinance related to this decision.

b. Reasons why the conditions are imposed.

B. Any other motion dealing with a non-administrative decision matter shall be stated in prose or in the form of a resolution.

Here’s another sample section from an administrative body’s rules of procedure:

4.5 Motions

A. Motions shall be restated by the chair (or the recording secretary) before a vote is taken.

B. Findings of Fact. All actions taken in an administrative capacity (including but not limited to appeals, special land use permits, subdivisions, zoning, site plan review, planned unit developments, variances, determination of compliance with an adopted plan, and review of township zoning) shall include each of the following parts.

1. A findings of fact, listing what the Commission determines to be relevant facts (including parcel owner, parcel legal descriptions, what is applied for) in the case in order to eliminate misleading statements, hearsay, irrelevant or untrue statements.

2. Conclusions, listing reasons based on the facts for the Commission’s action.

The Commission’s action, recommendation, or position, approval, approval with conditions, or disapproval.

Outline

A full set of minutes should include each of the following as it may have occurred during the meeting:

• Time and place the meeting was called to order.

• Attendance of members and support staff members.

• Indication of others present (listing names if others choose to sign in and/or an approximate count of those present).

• Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting, who gave the report and in what capacity. Attach a copy of reports offered in writing.

• Summary of all points made in public participation or at a hearing by the applicant, officials or guests and an indication of who
made the comments (name and address). Attach a copy of the public’s statement, petition or letter if it is provided in written form.
• Full text of all motions introduced (whether seconded or not), who made each motion and who seconded the motion.
• A summary of all points made by members and staff members in debate or discussion on the motion or issue.
• Who called the question, if applicable.
• The type of vote and its outcome. If a roll call vote, indicate who voted yes, who voted no and who abstained (and a reason for abstaining), or state that the vote was unanimous. If not a roll call vote, then simply a statement such as “The motion passed/failed after a voice vote.”
• Whether a person making a motion withdrew it from consideration.
• All the chair's rulings.
• All challenges, discussion and vote/outcome on a chair's ruling.
• All parliamentary inquiries or points of order.
• Time when a voting member enters or leaves the meeting.
• When a voting member or staff person has a conflict of interest and the general nature of the conflict, and when the voting member ceases or resumes participating in discussion, voting and deliberations at a meeting.
• All calls for an attendance count, the attendance and the ruling on whether a quorum exists.
• The time of start and end of each recess.
• Full text of any resolutions offered.
• Summary of announcements.
• Summary of informal actions or agreement on consensus.
• Time of adjournment.
Often it is easier and quicker to attach written materials (report, public statement, letter, petition, exhibits, evidence, etc.) to the minutes rather than take the time and trouble to summarize them in the minutes. This can be done by lettering or numbering each attachment. A statement in the minutes similar to the following is used to indicate something was presented and is a part of the minutes: “The statement by Mr. Doe is attached to the original copy of these minutes as appendix ‘A’ and made a part of these minutes.” The attachments do not need to be sent out with copies of the minutes for the next meeting, but each attachment should be included with the minutes filed with the clerk, kept on file by the administrative body or provided to a court.

Open Meetings Act
The following points should be kept in mind for purposes of complying with the Open Meetings Act:
• Minutes must be done and available for public inspection within eight business days following the meeting.12
• Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.13
• Approved minutes shall be public record and made available not later than five days after approval for the public to inspect at the address of the public body that appears on the public meeting notice. The public shall be able to buy copies of the minutes “at the reasonable cost for printing and copying.”14

---

12Section 9(3) of P.A. 267 of 1976, as amended, (being the Open Meeting Act, M.C.L. 15.269(3)).
13Section 9(1) of P.A. 267 of 1976, as amended, (being the Open Meeting Act, M.C.L. 15.269(1)).
14Section 9(2) of P.A. 267 of 1976, as amended, (being the Open Meeting Act, M.C.L. 15.269(2)).
Note-taking Techniques

Most public bodies elect a secretary or clerk. It is sometimes assumed that this person will take the minutes. In the case of an administrative body, that person is often a voting member of the board or commission. It is difficult to participate fully in the discussion and debate at the meeting while at the same time writing minutes. Doing both might be considered an unfair expectation. Expecting staff members (zoning administrator, planner) to be available at the meeting, making presentations and answering questions while at the same time taking minutes is also problematic. A number of alternatives can be more effective and reasonable in cost:

• Provide for the elected secretary to appoint a deputy secretary who attends the meeting to take and then prepare the minutes.
• On a contract basis, hire an individual to attend the meeting and take minutes. This often can be someone with a home computer who is seeking ways to make extra income.
• Often the elected clerk or the clerk’s deputy can be available to take minutes for the administrative body. In that case, the clerk should understand the difference between what should go into the minutes of an administrative body and those of a legislative body.
• If there is an office secretary in the municipality’s employ (for example, the secretary in the planning or building department or the general office secretary for the municipality), assign the job of taking minutes to that individual.

When a draft of the minutes is done, it should be proofread and then signed by the administrative body’s elected secretary. This proofreading should be done within eight business days after the meeting to comply with the Open Meetings Act. If a tape recording of the meeting is used by the secretary, that tape should be erased once the written version of the minutes has been approved. Avoid having more than one record of a meeting. That one record should be the written minutes, which are approved at the next meeting.

Using a tape recorder is an inefficient way to take minutes. Use of shorthand, a laptop computer or various other methods of note taking save time, are efficient and can be just as accurate. With laptop computers, a first rough draft of the minutes is done and already typed as soon as the meeting is over. An office secretary, deputy clerk or a person hired to take minutes should be expected to have this ability.

The Full Record

The entire record of a meeting should include more than just the minutes. The following should be kept as “the record” for each meeting. These items can be kept separately or attached to the copy of the minutes for that meeting.

• Copy of the Open Meetings Act notice or posting of the meeting.
• Affidavit of mailing and publication for required notices, as applicable.
• Affidavit indicating the Open Meetings Act notice was posted, when and where.
• Original copy of the minutes of the meeting.
• A copy of each attachment or exhibit referred to in the minutes.
• A copy of the application(s) and all of its attachments that were acted upon at the meeting (support documents, maps, site plans, photographs, correspondence received) attached as an appendix to the minutes.
• Subsequent records of any action (inspections, violation notices, etc.).

15Section 9(3) of P.A. 267 of 1976, as amended, (being the Open Meeting Act, M.C.L. 15.269(3)).
PUBLIC POLICY ANALYSIS

Michigan’s Right to Farm Act and New Generally Accepted Agricultural and Management Practices
Public Act 261 of 1999 (SB 205)

Introduction

A February public policy analysis paper1 explained the changes to the Right to Farm Act brought about by PA 261 of 1999 and discussed some of the policy questions related to the legislation. The analysis concluded that the new amendments left many unanswered questions that could only be addressed through judicial interpretation and through the publication of the new generally accepted agricultural and management practices required of the Michigan Commission of Agriculture (MCA). On June 1, MCA fulfilled its obligation under the new law and brought at least a measure of clarity to the operation of Michigan’s Right to Farm Act (RTFA). This paper explains the Commission’s new Generally Accepted Agricultural and Management Practices (GAAMPS) for Site Selection and Odor Control for New and

---

Authors:
PatriCia E. Norris, Extension Land Use Specialist
Department of Agricultural Economics
Phone: (517)353-7856
Fax: (517)432-1800
e-mail: norrisp@pilot.msu.edu

Gary D. Taylor, Extension State and Local Government Specialist
Phone: (517)353-9460
Fax: (517)432-1048
e-mail: layorg@msue.msu.edu

1 Excerpts from the paper appeared in the January 2000 issue of Planning and Zoning News. Copies are also available on the web at http://www.msue.msu.edu/msue/aoe/landuse/landresource.html or by contacting your local County Extension office.
Expanding Livestock Production Facilities and discusses some of the policy questions that arise from the adoption of these standards.
Background

Prior to the passage of PA 261, the Right to Farm Act ensured that farmers following GAAMPS were immune from nuisance suits; however, they were not immune from citations for violations of local ordinances if the standards set out in the ordinance differed from those set out in the GAAMPS. A major thrust of PA 261 was to set a uniform standard throughout the state for assessing responsible agricultural management practices. PA 261 provided that “a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with [the Right to Farm Act] or generally accepted agricultural and management practices developed under [the Right to Farm Act].”

The only GAAMPS in existence at the time PA 261 was enacted addressed manure management and utilization, pesticide utilization and pest control and nutrient utilization, care of farm animals and cranberry production. Recognizing that this random collection of management policies would not adequately address local air and water quality concerns, or create the desired uniform standards controlling individual livestock operations, the legislature directed MCA to adopt GAAMPS addressing site selection and odor control at new and expanding livestock production facilities. Working through an advisory committee comprised of officials from the Michigan Department of Agriculture (MDA) and Department of Environmental Quality (DEQ), agriculture industry representatives, Michigan State University agriculture scientists, and township and county officials, MCA met its June 1 deadline and adopted GAAMPS “to provide uniform, statewide standards and acceptable management practices based on sound science.”

The “How” and “Where” of the New GAAMPS

Other than the directive itself, PA 261 gave MCA little guidance for establishing a framework of management practices that will address multiple social, environmental and economic considerations, while at the same time balancing state and local control over land use decisions. Broadly speaking, the new GAAMPS attempt to meet these considerations in two ways: first, by establishing guidelines for how a livestock operation should be managed, and second, by setting forth criteria for determining where an operation can locate or expand. The how of the new GAAMPS is relatively straightforward and will be addressed first.

MDA Review of New or Expanding Livestock Operations

The GAAMPS for site selection and odor control apply to all new and expanding livestock production facilities with a capacity of 50 or greater animal units. In order to achieve protection from nuisance suits, a producer proposing a new or expanded operation of this size must develop a site plan and a manure management system plan. The location and size (in terms of animal units) of the operation dictate whether the producer is required to further proceed through the “site review and verification process” with MDA (the specific location and size thresholds will be discussed in the next section). If the operation reaches these threshold levels, the producer initiates the review process by submitting the plans to MDA, accompanied by a letter outlining the proposed project, any areas of concern the producer may have relative to the operation, the agencies and individuals the producer is working with, and the proposed project timeline. If the

---

2 These new GAAMPS can be found at [http://www.mda.state.mi.us/right2Farm/SiteSelection/index.html](http://www.mda.state.mi.us/right2Farm/SiteSelection/index.html) or by contacting the Michigan Department of Agriculture.

3 Animal units are defined as listed in the U.S. Code of Federal Regulations: 40 CFR 122. Specific numbers are provided in the GAAMPS.
operation will implement special technologies or management practices, a description must be included in this package.

The site verification and review process is the mechanism by which MDA reviews how a livestock operation will be managed. Mandatory review of site plans and manure management system plans marks a change from prior practice. Prior to the adoption of the new GAAMPs, producers were not required to submit a manure management system plan to receive nuisance suit protection unless specifically requested to do so by MDA, usually in response to a complaint about the operation. The new GAAMPs outline the steps of the review process, which include a preliminary site visit by MDA officials, notification to local units of government of all siting requests and determinations made by MDA regarding approval, and an appeal process if either the producer or surrounding neighbors are dissatisfied with MDA’s determination.

It is worth noting at this point that the language contained in the GAAMPs requires that local units of government be “notified of all siting requests.” Recall that producers are not required to apply for MDA verification unless their operations meet specified size and location thresholds. The GAAMPs allow other producers to submit their plans for review and verification, but if this language in the GAAMPs is strictly interpreted these producers will presumably fall under the notice requirements of the process. It is also worth noting that, while neighbors within one mile may appeal MDA’s final decision to the MCA, the GAAMPs themselves provide no specific mechanisms for notifying anyone other than the local unit of government that a siting request has been submitted or that a decision has, in fact, been made.

The new GAAMPs rely on the existing Manure Management and Utilization GAAMPs for the substantive standards by which proposed operations will be judged. MDA will review the manure management system plan to determine how the operation addresses those standards, using the following components:

- Whether the operation has sufficient land, or access to sufficient land, for the proper collection, storage, treatment, transfer and utilization of the manure and other by-products generated.
- Whether the polluted runoff and leachate from manure and feed is collected and transferred to storage or treatment facilities and utilized in an environmentally acceptable manner.
- The planning and installation of manure management system components to ensure proper function of the entire system.
- A written operation and maintenance plan for all structural components of the manure management system including inspection frequency, areas to address, regular maintenance and record keeping.
- An assessment of potential odor generation and the technologies and management practices to be implemented to minimize excessive odors.
- Through development of an Emergency Action Plan, an identification of the actions to take and contacts to be made in the event of a spill or discharge.

Other items that may accompany the manure management system plan include a veterinary waste management plan identifying the processes and procedures used to safely dispose of livestock-related veterinary wastes produced on the farm; a conservation plan describing the structural, vegetative and management measures for the fields where manure and other by-products will be applied; and a dead animal disposal plan identifying the processes and procedures used to safely dispose of the bodies of dead animals in compliance with PA 239 of 1994.

The site plan allows each proposed operation to be assessed individually for the appropriateness of its location relative to natural and man-made features, and distances to other human activities. The site
plan will include base maps to scale illustrating the following features:

- Property lines, easements, rights-of-way, and any deed restrictions.
- Public utilities, overhead power lines, cables, pipelines, legally established public drains.
- Positions of buildings, wells, septic systems, culverts, drains and waterways, walls, fences, roads, and other paved areas.
- Location, type and size of existing utilities.
- Location of wetlands, streams and other bodies of water.
- Existing land uses for contiguous land.
- Names and addresses of adjacent property owners.
- A soils map of the area where all livestock production facilities are to be located.
- Wind rose (indicates prevailing wind direction) from the nearest weather service office.
- Distance and direction to the non-farm residences within 1 mile.
- Distance and direction to the nearest residually zoned area.

Where New and Expanding Livestock Production Facilities Can Be Located

Preparation of a site plan for a proposed new or expanding livestock production facility requires understanding of how the new GAAMPs address the suitability of proposed sites. In general, the new GAAMPs leave with the local unit of government the decision of where, within its jurisdiction, livestock production facilities will be located. More specifically, townships and counties are still able to establish agriculture zones and determine the location of those zones. However, the GAAMPs restrict, to a degree, the location of individual facilities within those zones. Because of the restrictions in the GAAMPs, and because localities cannot adopt restrictions on management practices, local planning for agricultural land uses is more important than ever. Whether agriculture zones are identified as such because of the predominant land uses in the area or because of a natural resource base that makes agriculture the logical land use choice, setting aside areas for agriculture (as distinct from residential or other developed uses) is critical.

The GAAMPs establish that new and expanding livestock production facilities should only be constructed in areas where local zoning allows for agriculture uses. Within agriculture zones, then, all potential sites for a new or expanding livestock production facility lie within one of three categories. These three categories differ by the types of surrounding land uses and the natural resource base that characterizes the site. Whether an individual facility can be constructed or expanded depends upon the category within which the proposed site falls and, for facilities of a certain size, the outcome of MDA review of the site plan and manure management system plan developed for the proposed facility. In this way, the GAAMPs largely determine where, within an agriculture zone, an individual facility may be constructed or expanded.

Category I sites are those that are normally acceptable for livestock production facilities. A category 1 site exists where 3 or fewer residences not affiliated with the proposed livestock production facility are located

- within ¼ mile for operations with fewer than 1000 animal units
- within ½ mile for operations with 1000 or more animal units.

While all category 1 sites require preparation of a site plan and manure management system plan, only those facilities with 1000 animal units or more are required to obtain MDA review and verification of these plans. As indicated in table 1, minimum property line setbacks are provided for all sites in category 1. These setbacks indicate the minimum distance between a new or expanding facility and the property boundary of that facility. Notification of local unit of government refers to the local unit with
zoning authority over the site.

Category 2 sites are those where special technologies and/or management practices would be needed to make new and expanding livestock production facilities acceptable. A category 2 site exists where 4-20 residences not affiliated with the proposed livestock production facility are located

- within ¼ mile for operations with fewer than 1000 animal units
- within ½ mile for operations with 1000 or more animal units.

Table 1.
Category 1 Site Setbacks, Verification and Notification

<table>
<thead>
<tr>
<th>Animal Units</th>
<th>Non-Farm Residences within Distance</th>
<th>Minimum Property Line Setback</th>
<th>MDA Verification</th>
<th>Local Unit of Government Notification</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-999</td>
<td>0-3 within ¼ mile</td>
<td>260 ft</td>
<td>Upon Producer Request</td>
<td>Upon Local Unit Request</td>
</tr>
<tr>
<td>1000 or +</td>
<td>0-3 within ½ mile</td>
<td>600 ft</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Again, all category 2 sites require preparation of a site plan and manure management system plan. However, only those facilities with 250 animal units or more are required to obtain MDA review and verification of these plans. As is the case for category 1 sites, minimum property line setbacks are provided for all sites in category 2.

Table 2.
Category 2 Site Setbacks, Verification and Notification

<table>
<thead>
<tr>
<th>Animal Units</th>
<th>Non-Farm Residences within Distance</th>
<th>Minimum Property Line Setback</th>
<th>MDA Verification</th>
<th>Local Unit of Government Notification</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-249</td>
<td>4-20 within ¼ mile</td>
<td>260 ft</td>
<td>Upon Producer Request</td>
<td>Upon Local Unit Request</td>
</tr>
<tr>
<td>250-499</td>
<td>4-20 within ¼ mile</td>
<td>300 ft</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>500-749</td>
<td>4-20 within ¼ mile</td>
<td>400 ft</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>750-999</td>
<td>4-20 within ¼ mile</td>
<td>500 ft</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1000 or +</td>
<td>4-20 within ½ mile</td>
<td>600 ft</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Category 3 sites are those that, with a few exceptions, are not acceptable for new and expanding livestock production facilities. A category 3 site exists where more than 20 residences are

---

4 Setback distance may be modified with the use of the MNOSE model, utilizing the 95% odor annoyance free requirement, based upon proximity to existing non-farm residences and management technologies implemented at the livestock production facility. The MNOSE model is described beginning on page 7.

5 Setback distance may be modified with the use of the MNOSE model, utilizing the 95% odor annoyance free requirement, based upon proximity to existing non-farm residences and management technologies implemented at the livestock production facility. The MNOSE model is described beginning on page 7.

---

Michigan's Right to Farm Act and New GAAMPs Public Act 261 of 1999 (SB 205) Page 6 of 10
Michigan State University Extension Land Use Series December 1999
located within ¼ mile. In addition, several other neighboring land uses or natural resource features characterize a category 3 site, and a site that might otherwise fall into category 1 or 2 becomes a category 3 site as a result of these characteristics.

- New and expanding livestock production facilities and manure storage facilities shall not be constructed within a wetland.
- New and expanding livestock production facilities and manure storage facilities shall not be constructed in an area where they would be inundated with surface water during a 25-year flood.
- New livestock production facilities and manure storage facilities shall not be constructed within a 10 year time-of-travel zone designated as a wellhead protection area. An expanding livestock production facility may be constructed with review and approval by the local unit of government administering the wellhead protection program.
- Where no designated wellhead protection program exists, new and expanding livestock production facilities shall not be closer than 2000 feet to a Type I or Type IIa public water supply well, shall not be closer than 800 feet to a Type IIb or Type III public water supply well, and shall not be closer then 75 feet to private domestic water supply well.
- New and expanding livestock production facilities and manure storage facilities shall not be constructed within the 100 year flood plain of a stream reach where a community surface water source is located, unless the facility is located downstream of the surface water intake.
- New livestock production facilities and manure storage facilities should not be constructed within 1500 feet of high public use areas. Existing livestock production facilities may be expanded within 1500 feet of high public use areas with appropriate MDA review and verification, including input from the local unit of government and from the high public use areas within the 1500 foot setback.
- New livestock production facilities and manure storage facilities shall not be constructed within 1500 feet of areas zoned for residential use where agriculture uses are excluded. Existing livestock production facilities and manure storage facilities may be expanded within 1500 feet of areas zoned for residential use with approval from the local unit of government.

For category 1 and category 2 sites where MDA review and verification are required, the Minnesota Odor Setback Estimator (MNOSE) model will be used in evaluating whether the site is appropriate for the proposed facility construction or expansion. The MNOSE model uses data on type of animal housing, type of manure storage facility, size (ground area) of facility, and type of odor control technology, combined with data on prevailing wind speed and direction, to establish an “odor footprint” for any proposed site and facility. The GAAMPs specify that the proposed facility cannot generate odors that would annoy the nearest neighbor any more than 5 percent of the time (equivalent to 36 hours per month). Thus, the odor footprint of concern would be that land area over which odors from the facility would annoy neighbors at least 5 percent of the time (or, conversely, that area which could not be assured to be annoyance free at least 95% of the time). Figure 1 provides an example of an odor footprint using Lansing weather data. For the hypothetical campgrounds.

---

6 High public use areas include hospitals, churches, licensed commercial elder care facilities, licensed commercial child care facilities, school building, parks and

7 The MNOSE model quantifies odor intensity on a scale of 0 to 5 (0 being no odor and 5 being a very strong odor). An odor is considered an annoyance if it rates 3 or higher on the scale.
facility and site considered for this modeled example, the site at the center of the circle would not be acceptable for the proposed facility, technology and management if a residence (not affiliated with the livestock facility) is located within the 5% footprint area. That area covers a distance of 0.19 miles in all directions, except for due east where the footprint extends to 0.28 miles.

Policy Questions

Local governments and livestock producers are asking a number of questions. Some of the questions arise because of vagueness within the GAAMPs themselves. Other questions address issues that have not been addressed within the GAAMPs. Some of the more common policy questions are reviewed below.

Can local governments adopt ordinances to address areas not specifically addressed by GAAMPs?

The answer to this question appears to be yes. PA 261 prohibits local regulations that "extend, revise or conflict with the Right to Farm Act or the new GAAMPs." However, if local officials wish to adopt an ordinance that addresses standards unrelated to those addressed by the GAAMPs, they are not prohibited from doing so. If, for example, a local jurisdiction seeks to protect surface water resources by establishing setbacks for structures from all lakes and streams (not just those serving as public drinking water sources), it should be within its rights to do so because GAAMPs do not address the issue. The alternative interpretation, that the only controls allowable on livestock facilities are the GAAMPs, misses the central policy focus of the Right to Farm Act – that the RTFA and GAAMPs provide protection from nuisance suits, not the last word on regulating livestock production facilities.

What do the minimum property line setbacks mean?

In fact, the minimum property line setbacks provided in the GAAMPs are of little substance. While they may provide some initial guidance to producers considering construction or expansion of a livestock facility, actual separation distances necessary for nuisance-free siting will be determined by application of the MNOSE model. For example, even if a producer can satisfy the minimum property
line setback (say, 600 feet for a 1000 animal unit facility), the location of a home or business on an adjacent property could make siting a facility problematic.

Application of the MNOSE model could, for a large operation and typical manure management and odor control technologies, require a separation of as much as ½ mile between the facility and the neighboring home or business. The reverse is also true, however. While the GAAMPS specify a 600 foot property line setback, innovation on the part of the livestock producer could reduce that 600 foot requirement. For example, a particularly effective odor control technology could potentially enable construction or expansion of a livestock production facility on a site that does not satisfy the minimum property line setback.

During the public comment period for the draft of the GAAMPS, considerable debate over the appropriate setback distances made it clear that agreement between the opposing points of view on this issue is unlikely. Use of the MNOSE model is an attempt to interject an objective, scientific approach into the debate. While the GAAMPS prevent local units from requiring specific separation distances between livestock production facilities and other land uses, local government can play an important role in understanding how the MNOSE model is used in MDA decisions.

Is multi-tier agricultural zoning an option for local governments?

The answer is not clear. The GAAMPS provide that livestock production facilities “should only be constructed in areas where local zoning allows for agricultural uses.” However, some local ordinances distinguish between general agriculture zones (allowing livestock operations) and “crop-only” zones. One plausible interpretation is that crop-only zones conflict with the new GAAMPS since the GAAMPS address the circumstances under which livestock operations may be permitted. Another interpretation is that the local ordinance defines what an “agriculture zone” is and may exclude certain types of agriculture activities in inappropriate locations.

Irrespective of these differing interpretations, it is likely that these distinctions will be moot in a great many individual cases. If the basis of the crop-only zone is the presence of non-agricultural uses, the application of the MNOSE model makes it unlikely that many livestock production facilities attempting to locate in areas with large numbers of non-agricultural land uses will meet the 95 percent odor annoyance-free requirement, thereby losing protection from nuisance suits. If the crop-only zone is based on environmental considerations, such as vulnerable water tables or proximity to surface water, the GAAMPS address many of those concerns, as well. It is important for local officials to recall that they may adopt more stringent controls than those found in GAAMPS if such controls are based on scientific evidence and justified due to a risk to public health or the environment.

A related question is whether a jurisdiction can completely eliminate livestock operations from their communities through rural residential zones that prohibit all agricultural uses. Since the threshold question for siting livestock facilities under the GAAMPS is whether the location is zoned for agricultural uses, it would appear that local officials do, in fact, have the power to make that initial determination. The larger question, however, is whether this would be good land use policy for most rural communities to follow or whether, in many communities, this would be throwing out the baby with the bath. In addition, such an approach would likely raise the constitutional question of exclusionary zoning.

Can local governments limit the size of livestock production facilities (animal units)?

The answer appears to be no. This question is
related to the previous question; however, it would be logical to conclude that, once a local jurisdiction has decided to allow livestock production facilities in a particular zone, then GAAMPs "preempt the field" in terms of managing such operations.

Can local governments adopt GAAMPs as part of a local ordinance?

The answer appears to be yes. A local ordinance that requires all new and expanding livestock production facilities to comply with GAAMPs does not force producers to comply with standards that differ or conflict with the standards contained in the GAAMPs. Neither would such an ordinance "extend or revise" the Right to Farm Act, because it would not extend protection from nuisance suits to any producers that would not otherwise qualify for such protection. In effect, it brings all producers under a uniform standard for operation management and location, whether or not they desire protection from nuisance suits.

Adopting GAAMPs as part of a local ordinance could take one of two forms. A local government could adopt the GAAMPs standards themselves, thereby creating in the local government the burdensome responsibility of monitoring operations and enforcing its ordinance. This would include reviewing site plans and manure management system plans, enforcing setbacks, and understanding and applying the MNOSF model. This approach raises questions over the legal consequences of conflicting outcomes (i.e., if, for example, MDA were to verify plans that the local unit of government judged to be inadequate, or vice versa) or applying the standards to small producers that are not covered by GAAMPs. The other approach is to require proof of compliance with all MDA requirements as a condition for approval of a special use permit.

Conclusions and Implications

The principle implication of the adoption of the new Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities is that local governments have not lost all ability to plan and zone for agricultural land uses. In fact, land use planning at the local level is more important than ever. While the new GAAMPs determine, to a large degree, how a livestock production facility may be situated on the landscape and how that operation is to be managed to control odor, the more general task of planning for where, within its jurisdiction, agriculture is to occur remains the responsibility of the local government.

There are still unanswered questions about how GAAMPs impact local land use policy. This analysis reviews a few of the more common questions, but others will continue to arise. These questions are likely to be addressed in one of three ways. First, all GAAMPs are reviewed annually and are subject to revision. Areas of confusion or problems may be remedied by this review process. Second, some questions related to the passage of PA 261, and the GAAMPs required by statute, may be answered by additional legislation. Finally, PA 261 and associated GAAMPs may face legal challenges, the determinations of which will provide answers to questions of legality and constitutionality.
Removing Spot Zoning From the Fabric of Zoning Practice

Gary D. Taylor, J.D., State & Local Government Specialist
Department of Agricultural Economics
Michigan State University Extension

Without a doubt, few terms are uttered by both proponents and opponents of zoning actions more frequently than “spot zoning.” Spot zoning stands alongside takings as one of the most frequently advanced, yet generally misunderstood concepts of planning and zoning law. In December 2003, the Michigan Court of Appeals revisited the spot zoning issue and attempted to harmonize two seemingly contradictory lines of cases.1 This article will review the Michigan cases addressing spot zoning and provide guidance to land use decision-makers on how to remove spot zoning from the list of problematic land use issues. This guidance should be applied liberally to all areas of your community; no need to pre-test on a small, Inconspicuous area.

The Problem with Simplicity

The one-sentence definition of spot zoning most frequently cited by Michigan courts was first stated in Penning v. Owens:2

“A zoning ordinance or amendment...creating a small zone of inconsistent use within a larger zone is commonly designated as spot zoning.”

The site plan at the right (Fig. 1) provides a visual description of this one-sentence definition.

Parcel “C” has been rezoned commercial. The surrounding uses (and zoning) is residential. The one-sentence definition supplied by the court in Penning implies a purely spatial, neighborhood character-type of analysis, and would indicate that the rezoning of Parcel C is illegal. Clearly, commercial zoning is out of place in this context.

The definition found in Penning is simple and easily conceptualized. It is also the source of much of the misunderstanding surrounding the spot zoning issue. If the analysis actually ended with this single sentence, many neighborhood commercial uses or downtown apartments could be characterized as illegal spot zoning. Commercial zoning to accommodate uses that predate an area’s residential development also would be illegal, and mixed use developments and cluster zoning would be more difficult to implement. An island of inconsistent use on a zoning map creates a suspicion by the casual observer that a landowner is being singled out for favorable treatment, but to fully understand whether a small zone of inconsistent use is actually contrary to law we must dig deeper.

Fig. 1 - Site Plan

![Site Plan Diagram]
Spot Zoning in Other States

Other state courts have adopted varying definitions of spot zoning. Some of these definitions are useful starting point for the discussion of spot zoning in Michigan because they focus more on an analysis of the problems associated with spot zoning than simply on a description of the zoning map. For example, the state courts of Texas have recognized that simply looking at the state of the zoning map, without further analysis, is insufficient. In Burkett v. City of Texarkana, the Texas Sixth District Court of Appeals observed:

“It has frequently been said that spot zoning is arbitrary and void. However, the term is not a word of art, rather it is descriptive of the process of singling out a small parcel of land for a use classification different and inconsistent with that of the surrounding area, for the benefit of the owner of such property and to the detriment of the rights of other property owners.”

Texas courts imply improper motives are the root of evil in spot zoning. To find illegal spot zoning they look not only at the neighborhood, but also make an analysis of whether preferential benefits resulted for one, or a small number of landowners. The Texas Supreme Court has viewed spot zoning as “preferential treatment which defeats a pre-established comprehensive plan. It is piecemeal zoning, the antithesis of planned zoning.”

Massachusetts courts take a slightly different approach. To determine whether illegal spot zoning exists, Massachusetts courts apply a balancing test that weighs the benefits to the public of spot zoning against its detrimental effects on neighboring landowners. In Massachusetts, then, a small parcel of inconsistent use that confers benefits to the owner of the parcel could be upheld, so long as the public benefits as well, and to a greater degree than that to which neighboring landowners are harmed.

Washington state courts have emphasized the importance of comprehensive plans and land use regulations by adopted what has come to be known as the “change-mistake rule” for assessing the validity of all zoning amendments, including spot zoning situations. The rule holds that a court will uphold a zoning map amendment only if it is based on a change in conditions in the surrounding neighborhood since the zoning was adopted, or a mistake in the original zoning classification. An exception exists if, regardless of consistency with neighborhood character, the rezoning brings the zoning into line with the comprehensive plan. The change-mistake rule shifts the burden of proof to the proponent of the zoning change. This rule obviously makes it more difficult for an individual landowner to secure a change in zoning that is inconsistent with neighborhood character. It also disregards the inquiry into motives and favorable treatment that can be difficult to prove in administrative or judicial proceedings. It is worth noting that comprehensive planning is mandated by Washington state statute, and that zoning must be consistent with the plan.

The Real Criteria for Spot Zoning in Michigan

Why this recitation of case law from other states? The reality is that Michigan courts implicitly have employed, at various times in various cases, many of the criteria found in these cases from other states in deciding spot zoning questions here. Michigan courts, in fact, do not stop with the one-sentence definition from Penning. The courts will weigh all the “facts and circumstances” of a case in deciding the validity of an isolated zoning amendment. The trick is to distill from the fifteen or so Michigan appellate court decisions on spot zoning what the courts really consider to be the important facts and circumstances. A breakdown of these considerations follows.

Important Considerations

Zoning presumed valid. Michigan courts have sent mixed messages on whether the presumption of validity afforded to communities on other zoning matters can be relied on with the same confidence when spot zoning is asserted in a challenge to a decision. Brae Burn v. Bloomfield Hills is the most frequently cited case for the proposition that “the zoning ordinance is clothed with the presumption of validity, and it is the burden of the party attacking the
ordinance to prove affirmatively that it is arbitrary and reasonable.” Courts have cited this language in spot zoning cases.⁹ The courts have also noted that this presumption is strengthened by the existence of a formally adopted master plan.¹⁰ However, the appellate courts also occasionally have been led astray by language from Penning that seems to place the burden on the zoning authority. Immediately after stating the one-sentence definition of spot zoning set forth above, the Penning court went on to say:

“Such an ordinance is closely scrutinized by a court and sustained only when the facts and circumstances indicate a valid exercise of the zoning power.”¹¹ [emphasis added].

Subsequent spot zoning cases cited with approval this language from Penning and seemed to require municipalities to affirmatively prove the reasonableness of their zoning decisions in spot zoning cases in order for them to be upheld.¹²

In Essexville the Court of Appeals squarely faced the question of the presumption of validity of spot zoning decisions. After a lengthy review of the relevant cases, the Court of Appeals concluded that, in fact, Penning and Anderson say the same thing as Brae Burn concerning the presumption of validity:

“In neither Penning nor Anderson did the courts disavow the deferential standard of review forcefully declared in Brae Burn and other cases. Moreover, both Penning and Anderson denounced ‘haphazard,’ ‘piecemeal’ zoning decisions that were contrary to existing zoning plans, which is consistent with the reasonable and arbitrary” test set forth in Brae Burn and other cases.”¹³

Essexville, then, should clear up any questions about whether the burden of proof shifts in spot zoning cases. Land use decision-makers should take comfort in the knowledge that the presumption of validity accompanies their decisions, even when spot zoning is alleged.

“Small zone...” The first part of the Penning definition focuses on the geographic size of the parcel in question. An examination of other cases shows that size is relative. In Raabe v. City of Walker,¹⁴ the Michigan Supreme Court determined that rezoning a 180-acre tract of land to heavy industry, when surrounding uses were predominantly agricultural, constituted spot zoning. Similarly, in Trenton Development Co. v. Trenton Village,¹⁵ the zoning of a three-block area for duplexes was considered spot zoning when the surrounding neighborhood was zoned multi-family. Perhaps it is more accurate to say that size matters when the parcel in question is comparatively small relative to the surrounding area.

Single Parcel or Landowner. The vast majority of spot zoning cases involve a single parcel or landowner. Essexville confirmed that rezoning a single parcel owned by a single landowner to an inconsistent use, standing alone, is an insufficient legal basis upon which to conclude that illegal spot zoning has taken place. This conclusion makes perfect sense in the big-picture of zoning practice, for the vast majority of rezoning requests are made by a single landowner for a single parcel. This is not a unique identifier of spot zoning. However, it is a factor that will raise a red flag for the courts if it is accompanied by the other listed considerations.

“Inconsistent use.” The character of the area has appeared in various cases as an important consideration, particularly when the municipality cannot point to a master plan or "plan of zoning" to justify rezoning to an inconsistent use. In Raabe v. City of Walker,¹⁶ the court specifically noted that a decision "purposed toward contradictory rezoning, after years of original zoning upon which concerned persons have come to depend" is substantially weakened by the absence of a master plan thatJustifies the change in policy. In Michaels v. Village of Franklin¹⁷, the refusal to rezone a parcel to commercial, when all surrounding uses were commercial, was found to be unreasonable.

It is worth noting that Raabe cites, with approval, a Maryland case that utilized the change-mistake rule in saying that a rezoning is appropriate "only when there was some mistake in the original zoning, or when there are genuine changes in the character of the neighborhood." Penning also calls on the change-
mistake rule in deciding against the rezoning. According to Clan Crawford, the change-mistake rule has not been consistently followed in other Michigan cases. In communities without master plans, then, the red flag should go up when a proposed rezoning would be particularly out-of-character with its surrounding uses.

**Purpose and motive.** As stated above, the vast majority of spot zoning cases involve a single parcel or landowner. This would seem to imply that one of the concerns surrounding spot zoning is favorable treatment of a single individual. The cases, however, never articulate this concern. The courts tend to focus instead on the inconsistency of land uses resulting from spot zoning. Several cases have used language similar to that found in *Anderson,* that

“The legislative intention in authorizing comprehensive zoning is reasonable uniformity within districts having the same general characteristics and not the marking off, for peculiar uses or restrictions of small districts essentially similar to the general area in which they are situated.”

*Essexville,* however, raises the possibility that unfavorable treatment of a single individual by the city could be illegal if the city’s motives are improper. In *Essexville* the landowner asserted that his land was placed in a zone permitting parks and recreational uses, when the vast majority of the surrounding land was industrial, in order to depress the property value for later acquisition by the city for public parkland. The Court of Appeals remanded *Essexville* to the trial court to take further evidence on this issue. Likewise, the court in *Michaels* considered the possibility (without deciding the specific question) that the village was refusing plaintiff’s rezoning request in order to depress the market value for eventual purchase.

In many of the cases when the public derides a particular decision as spot zoning, the public is really voicing a belief that “something fishy is going on here.” The courts, however, seem more concerned with consistency in land uses. Absent a showing of actual fraud, a legal challenge solely on the basis of improper motive is not likely to succeed if the decision is supported by the master plan.

**Key Consideration: Consistency With Plans**

The *Essexville* decision confirms that consistency with the plan is probably the most critical factor a court will consider today in deciding whether a “small zone of inconsistent use” constitutes illegal spot zoning. The court placed heavy reliance on the fact that the ordinance was based on a reasonable development plan “and constituted the elected representative[s]’ decision regarding how the city landscape...should be developed in the future.” The existence (or absence) of a master plan has essentially decided the outcome of several spot zoning cases. In *Essexville,* for example, the court upheld the city’s creation of an essentially small (4.37 acres) and isolated nonindustrial district in the middle of industrial uses because the plan called for greater recreational riverfront access. In *Raabe* the court overturned the rezoning of a 180-acre parcel to industrial from agricultural because it was not part of any general plan. In *Penning* the court overturned the rezoning of a small parcel to commercial from residential, even though it neighbored an existing commercial use that predated the ordinance, because the rezoning was “inconsistent with the basic plan of zoning.”

These cases bring to light another important point. The astute reader will have noticed that the courts have not always articulated (or even recognized) the distinction between the terms “master plan” and “the basic plan of zoning.” However, the parties to spot zoning litigation know the difference, and use those differences to their respective advantage. The master plan is usually used to justify a rezoning, while “the basic plan of zoning” will more than likely be used to overturn a rezoning. The master plan text and map are the instruments for articulating a change in land use policy. In contrast, a municipality generally cannot find justification for a change in policy in the very document (the ordinance) the municipality is trying to amend. The single best piece of advice for local governments in the general arena of land use is also the best advice for avoiding spot zoning problems: *Make plans. Make decisions that are consistent with plans.*
Is Spot Zoning Really Different?

This was really the central question addressed by *Essexville*. The court felt it necessary to decide "whether the *Penning* and *Anderson* cases contain separate zoning principles apart from those set forth in *Brae Burn*..., and if so, which line of cases controls."20 In other words, are the facts and circumstances of spot zoning cases so different from other zoning cases that they warrant a separate set of rules? The ultimate response of the Court of Appeals was a qualified "no." The Court read *Pinning* to be consistent with *Brae Burn* in giving local zoning decisions the presumption of validity. However, it went on to say:

"But, when a discrete zoning decision is made regarding a particular parcel of property -- typically a decision involving an amendment or variance that results in allowing uses for specific land that are inconsistent with the overall plan as established by the ordinance -- the courts will apply greater scrutiny. Those isolated or discrete decisions are more prone to arbitrariness because they are micro in nature, i.e., the decisions are based on the particular land and circumstance at issue in the request for amendment or variance."

Much of the confusion and misunderstanding surrounding spot zoning over the years has come about because of the belief that "small zones of inconsistent use" described the complete legal test for spot zoning (in the words of Texas courts, treating spot zoning as a "term of art," rather than the set of facts in a particular situation. *Essexville* provides land use decision-makers with a holding that takes us beyond a one-sentence legal standard for spot zoning. It emphasizes that a small zone of inconsistent use deserves "greater scrutiny" (the qualifier), but that a court must still look at the overall reasonableness of the governmental interest being advanced, consistent with *Brae Burn*, *Kropf* and other key Michigan zoning decisions.

Summary and Checklist

Spot zoning does describe a situation that, by its very nature, draws closer scrutiny to the actions of the zoning authority; however, rather than define different rules for determining the legality of a particular spot zoning situation, a more appropriate approach is to analyze such cases under traditional analyzes of zoning validity. If you are charged with making land use decision on behalf of your community and a claim of spot zoning is raised, you should run though the following list of considerations:

- Is the "spot" in question small and discrete compared to the surrounding area?
- Does the "spot" involve one landowner or one parcel?
- Is the "spot," whether on the map as initially adopted or a request for rezoning, a use inconsistent with surrounding uses or the surrounding zoning?

If some or all of these characteristics are present the court will give "greater scrutiny" to the decision of your local government. You should then consider how you would be able to answer the following questions related to the requested use:

1) Is the requested use consistent with your master plan map? Does the plan's text present justifications for this use in this location?
2) In the absence of a master plan, does the requested use make sense in light of "the overall plan of zoning?"
   i) Can your community articulate a reasonable basis for the requested use in the requested location?
   ii) Can your zoning accommodate the request through a special use permit or PUD?
3) Would the denial of the request (i.e., refusal to create a "spot") preclude the property's use for any purposes to which it is reasonably adapted?
If you can answer “yes” to (1) or (2), and “no” to (3) then you have successfully removed any legitimate claim of illegal spot zoning.

1 City of Essexville v. Carrollton Concrete Mix, Inc., ___ Mich. App. ___
4 Thompson v. City of Palestine, 510 S.W.2d 578, 582
   (Tex. 1974).
   1998).
8 350 Mich. 426, 86 N.W.2d 166 (1957). See also Krop v.
9 See Lanphear v. Antwerp Township, 56 Mich. App. 641, 214
   N.W.2d 66 (1973); Brun v. Farmington Hills, 96 Mich. App. 664,
   293 N.W.2d 699 (1980).
12 See, e.g., SBS Builders v. Madison Heights, 369 Mich. 323,
   209 N.W.2d 437 (1973); See also Anderson v. Highland
13 Id., at 6.
   Arbor: Institute of Continuing Legal Education, p. 87.
19 Anderson, 21 Mich. App. 64 at 75.
20 Essexville, WL22494267 at p. 3.

Public Policy Brief: Contacts

Room 88, Agriculture Hall, MSU, East Lansing, MI 48824-1039 (http://www.msue.msu.edu/ace/sig/)

State & Local Government Area of Expertise Team Members

John Amrhein (amrheinj@msue.msu.edu, 231-779-9480)
Dave Fenech (fenechd@msue.msu.edu, 810-244-8522)
Lynn Harvey (harvey@msue.msu.edu, 517-355-0118)
Roy Hayes (hayes@msue.msu.edu, 517-546-3950)
Hal Hudson (hudson@msue.msu.edu, 989-539-7805)
Elizabeth Moore (mooreea@msue.msu.edu, 517-353-9694)
Ann Nieuwenhuis (nieuwenh@msue.msu.edu, 269-383-8830)
Julie Ploch (plochj@msue.msu.edu, 269-657-7745)
Marilyn Rudzinski (rudzinsk@msue.msu.edu, 586-469-5180)
Gary Taylor (taylorg@msue.msu.edu, 517-353-9460)

Bringing Knowledge to Life!

MICHIGAN STATE
UNIVERSITY
EXTENSION

MSU is an Affirmative Action/Equal Opportunity institution. Extension programs and materials are open to all without regard to race, color, national
origin, gender, religion, age, disability, political beliefs, sexual orientation, marital status, or family status.

Issued in furtherance of Extension work
in agriculture and home economics, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Margaret Bethel,
Extension Director, Michigan State University, East Lansing, MI 48824.
Property Taking, Types and Analysis

“If you do not give me the zoning permit, I’ll sue you for taking my property” is a statement that might be made at a more contentious planning commission meeting. The statement may make planning commissioners nervous. The statement may be made by an angry citizen knowing that private property is protected by the U.S. Constitution.

But regulatory taking claims are often more effective politically, rather than being based on a solid legal foundation. For a start on the legal foundation: statements about private property rights are in both the U.S. Constitution and in the Michigan Constitution:

No person shall be . . . deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.¹

. . . private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.²

Neither constitution prohibits government from taking property, but both provide some protection against governmental abuse. These provisions require that when government takes property, it must do so in a fair way (due process), it must do so only for a “public use,” and it must compensate the property owner a fair amount for the property interest taken (taking).

The taking clause was originally understood to apply only to actual taking—that is, when government condemns land by exercising its powers of eminent domain. The clause has since been accepted by the courts as applying to regulations as well, after the U.S. Supreme Court ruled in Pennsylvania Coal Co. v Mahon that “if regulation goes too far it will recognized as a taking” (260 U.S. 393, 415 (1922)).

Authors

Co-Author: Richard K. Norton, Ph.D., J.D., ASSOCIATE PROFESSOR AND CHAIR, URBAN AND REGIONAL PLANNING PROGRAM
Taubman College of Architecture and Urban Planning, University of Michigan.

Co-Author: Kurt H. Schindler, AICP, SENIOR EDUCATOR, LAND USE; MSU Extension, Greening Michigan Institute.
Phone: (231)882-0026
eMail: SCHINDL9@anr.msu.edu
Overland mail:
MSU Extension, Benzie County
448 Court Place
Beulah, Michigan 49617
Assistance from Dean Solomon, Senior Educator, Land Use; MSU Extension, Charlevoix County

¹ Fifth Amendment of the U.S. Constitution.
² Article 10§2; 1963 Michigan Constitution.
Four Types of Taking

Since the Pennsylvania Coal case the courts have been working out what it means for a regulation to go “too far.” There are four categories of regulatory taking and they explain a thought process to evaluate if such a taking has occurred or not:

- First, a regulatory taking occurs when the government regulates property to the point that it results in a total economic loss for the private property owner. The U.S. Supreme Court decision that established this rule is *Lucus v South Carolina Coastal Council.* This is called a “total economic deprivation,” taking completely the right to use one’s property. This is the first of two kinds of “categorical” taking (i.e., if the condition or category applies—such as total economic loss—then it’s a taking, without consideration of other factors).

- Second, a regulatory taking occurs when the government regulation compels a private property owner to allow others to enter upon his or property. The U.S. Supreme Court decision that established this rule is *Loretto v Teleprompter Manhattan CATV Corp.* This is called a “permanent physical invasion” or “ouster,” taking completely the right to exclude others from one’s property. This is the second kind of categorical taking.

- Third, a regulatory taking may have occurred when government regulates such that part, but not all of the private property owner’s use of the property is diminished. In these situations the taking claim is settled on a case-by-case review, as each situation will be different. The court strives to balance the interests of the public (government actions) with the interests of the private property owner. The U.S. Supreme Court decision that established this rule is *Penn Central Transportation Co. v New York City.* This is referred to as the “ad hoc balancing test,” and it is always decided on a case-by-case basis given the particular facts of the case and the interests at stake.

- Finally, a regulatory taking may have occurred when government demands that a property owner convey either a property interest or in lieu payments (“dedications” or “exactions”) in exchange for some type of governmental permit or decision that would allow the development to proceed. These kinds of dedications and exactions are actually quite limited in Michigan because of statutory enabling limits imposed through the Michigan Land Division Act and the Michigan Zoning Enabling Act. When such a dedication is legitimately applied, however, then the courts will assess whether it amounted to a regulatory taking nonetheless by applying the U.S. Supreme Court decisions of *Nollan v California Coastal Commission,* and *Dolan v City of Tigard.* These decisions demand that there be an “essential nexus” or reasonable connection between the dedication being imposed and the harm being addressed (Nollan), and that the cost of that dedication to the property owner be “roughly proportional” to the scope of that harm prevented (Dolan).

Taking Questions

Finding the balance between constitutional principles designed to protect people from unfair governmental action and the need to allow government to engage necessary regulatory powers results in a series of questions: When have government’s actions gone “too far?” What amount of the property is included? What should the

---


remedy be? And who decides if a taking has occurred?

**Who Decides?**

One simply cannot assert that a regulatory taking has happened, and a government never intends to initiate or impose a regulatory taking (as it would with a condemnation). Rather, the decision that a regulatory taking occurred is made by a judge, following a court case on the matter. That means generally that the regulation believed to have created a taking has already occurred, and the court is reviewing what happened after-the-fact.\(^8\)

**Amount of Property Included?**

The whole parcel is included, not just a part of the parcel. The review looks at the ability to use one’s entire parcel of land. For example if a regulation prevents development of a wetland, but the wetland is only 10 percent of the entire parcel, then the impact of the government’s regulation would be measured as only impacting 10 percent of the land (i.e., the regulation will not amount to a *Lucus* “total economic deprivation,” even for that 10 percent portion of the land because the whole parcel encompasses potentially developable land). Conversely if the entire parcel is wetland, then the impact of the government’s actions would be measured as impacting 100 percent of the land.\(^9\)

**Remedy?**

Whenever a court determines that a regulatory taking has occurred, the government will always be liable for the ‘temporary taking’ that necessarily occurred between when the regulation was adopted and when the court’s decision was made. In general, the government will need to compensate the landowner for the ‘fair rental value’ of the land during that period of time. Beyond that, the government then generally has two choices:

1. It can buy the land outright, essentially condemning it and paying for the taking.
2. It can repeal the regulation that caused the taking and not pay any additional compensation.

If the government chooses to take title to the land and retain the regulation, then the amount of compensation owed the landowner will generally be the fair market value of the land (i.e., its value before the regulation was enacted).\(^10\)

A regulatory takings claim, like any zoning decision, ‘runs with the land.’ So if the property is purchased by another owner, that new owner also can pursue a takings court case.\(^11\)

**How far is “too far?”**

Not every regulation amounts to a regulatory taking, and short of a total economic deprivation, loss of economic value by itself doesn’t constitute a taking. The constitution doesn’t guarantee that someone can make as much profit as he or she would like through the use of his or her private property, only that it can be put to some reasonable use. Sometimes even regulation that appears to result in a total economic deprivation may not be a taking. In many ways, modern zoning laws codify historic nuisance common law principles that date back many years, even centuries. Property ownership brings with it inherent limits on engaging uses that would violate those principles—such as limits on nuisance-like harms to neighboring properties. If the regulation merely codifies a limit on use that already existed through those “background principles,” then the owner never had those rights in the first place and nothing was taken—that is, no regulatory taking. This principle was established by the *Lucus* decision, noted above.

But there are times when one party may

---

\(^8\) *Marbury v Madison* (5 US 137 (1803)), *Pennsylvania Coal v Mahon* (260 US 393 (1922)).


\(^10\) *First English Evangelical Lutheran Church v. County of Los Angeles*, (482 U.S. 304 (1987)), *Penn Central Transportation Co. v New York City* (438 US 104 (1978)).

believe government’s actions did take their property. In those instances there needs to be a finding that the government may have gone “too far.” Over time courts have handed down the case law described above and used that case law to provide a means for analyzing if government actions have gone far enough to become a taking.

**Taking Analysis**

When a regulatory taking case goes to court, the analytical process usually used by the court might be outlined in the following way. Keep in mind this explanation is brief, and far more detail will occur with individual court cases.

The first question asked is whether there are other constitutional claims that could apply to the regulation in question, such as procedural due process, substantive due process, equal protection, etc. One constitutional requirement, for example, is that property cannot be regulated without due process of law. So if due process was not followed, the court will focus on that. If there were such problems, then there is a very good chance the court will not deal with the regulatory taking claim at all.

Second, if other constitutional claims do not apply, the court will determine if the regulation amounted to one of the two types of categorical regulatory taking described above (i.e., a total economic deprivation or an ouster). If it did, then the task is to determine the value of the property interest taken and order the government to pay the private property owner that dollar amount.

Third, if the regulation did not amount to a categorical taking, the court will apply the “ad hoc” balancing test to determine whether it amounted to a regulatory taking nonetheless, given the facts of the particular case. In doing this, the court’s job is to balance the interests of the public (government’s regulation) with the interests of the private property owner. The court looks at the following three factors:

- **Reasonableness of the owner’s investment-backed expectations.**
- **Reasonableness of the government’s regulation.**
- **Severity of the economic impact on the private property owner.**

The result under this ad hoc balancing test is that most regulations are found not to amount to a regulatory taking because of their relatively minor impact on the property owner and the government regulation’s importance to society. But there will also be cases where the impact on the property owner is significant, or the government’s regulation is highly questionable. In those cases, a regulatory taking may have occurred. If a court determines that it has, as with the other ways to get here, its task is to then determine the value of the property interest taken and order the government to pay the private property owner that dollar amount.

Finally, if it was not a regulatory taking, the court will determine if the governmental regulation involves a dedication or exaction requirement, and if that dedication or exaction requirement was indeed statutorily enabled. The court will apply the Nollan and Dolan tests to ensure that there was a reasonable connection between the dedication required and the harm that would have been caused by the development, and that the cost to the developer is roughly proportional to the scope of the harm avoided. (If the dedication or exaction requirement was not enabled in the first place, then it would be struck down on that ground alone, before getting to a regulatory taking claim.)

**Other Resources**

Also Michigan State University Extension has additional fact sheets on taking on this topic. *Land Use Series “Summary of Property Takings Case Law”* by Christopher Grobbel, Ph.D. (2002) reviews court cases on taking law. The *Land Use Series “A Behavioral Approach to Avoid Regulatory Takings”* by Joseph F. Galvin, Esq. and Kurt H. Schindler, AICP, focuses on behaviors by local officials which can get their government into problems with regulatory taking.

These can be found at [lu.msue.msu.edu](http://lu.msue.msu.edu).
Train of Thought for Property Taking Case

A question is raised in a lawsuit about if there is a taking of private property without compensation.

1. Do other constitutional claims apply? (E.g., procedural due process, substantive due process, equal protection, etc.)

| No, go to the next question. | Yes. Then the court case is decided on those other constitutional claims. |

2. Is it one of two types of categorical taking (total economic deprivation, ouster)?

| No, go to the next question. | Yes. The court focuses on determining the just compensation owed for the taking (e.g., fair market value of the property) and the case is over. |

3. Is it the second of two types of categorical taking (ouster or physical invasion)?

| No, go to the next question. | Yes. The court focuses on determining the just compensation owed for the taking (e.g., fair market of the invaded property) and the case is over. |

4. Is it a *Penn Central* regulatory taking, a situation that is case-specific (a balance by use of a three-part “ad hoc” test)?

| No, go to the next question. | Yes. The court focuses on determining the just compensation owed for the taking, and the case is over. |

- Reasonableness of the owner’s investment-backed expectations.
- Reasonableness of the government’s regulation.
- Severity of the economic impact on the private property owner.

5. Is it an exaction or dedication? (two considerations)

| No. The court rules it is not a taking and the case is over. | Yes. The court focuses on determining the just compensation owed for the taking, and the case is over. |

- Essential nexus
- Rough proportionality