

**WHITEWATER TOWNSHIP PLANNING COMMISSION**

**AGENDA FOR REGULAR MEETING, April 3 2019**

7:00 PM, Whitewater Township Hall

5777 Vinton Road, Williamsburg, MI 49690

Phone 231-267-5141/Fax 231-267-9020

1. Call to Order/Pledge Allegiance
2. Roll Call of Commission Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest
5. **Public Comment:** Any person shall be permitted to address a meeting of the Planning Commission. Public comments shall be carried out in accordance with the following rules and procedures:
  - a. Comments shall be directed to the Commission, with questions directed to the Chair.
  - b. Any person wishing to address the Commission shall speak from the lectern and state his/her name and address
  - c. Persons may address the Commission on matters that are relevant to township planning and zoning issues.
  - d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer Commission members' questions.
  - e. Public comment shall be limited to 3 minutes.
6. Public Hearing: N/A
7. Approval of March 2019, meeting minutes
8. Correspondence
9. Reports/Presentations/Announcements/Comments
  - a. Zoning Administrator
  - b. Chair, Mangus
  - c. Township Board Representative, Lawson
  - d. ZBA Representative, Hooper
10. Unfinished Business:
  - a. Update on status of joint meeting between PC and Township Board
  - b. Update on stand-alone storage buildings text amendment
  - c. Article 11 Recreational (RC) District 5 acre minimum discussion
11. New Business:
  - a. Short review of process and procedure for zoning changes: Review of PA 33 and 110
  - b. Review Environmentally Sensitive Ordinance #27
  - c. Five year master plan review
12. Next Meeting, May 1, 2019, Agenda
13. Public Comment
14. Commission Discussion/Comments
15. Continuing Education: Discussion of Robert's Rules of Order
16. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the Township Clerk at 231-267-5141 or the TDD at 800-649-3777.

WHITEWATER TOWNSHIP PLANNING COMMISSION  
MINUTES FOR REGULAR MEETING  
March 6, 2019

Call to Order at 7:00 p.m.

Roll Call: Dean, Lawson, Jacobson, Savage

Absent: Hooper, Mangus

Also in attendance: Recording Secretary MacLean, Zoning Administrator Lindsey Wolf + 4 in audience

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None.

Public Comment: None.

Public Hearing: Regarding Amendment #73.

- a. Open Public Hearing at 7:02.
- b. Attendance sign in request
- c. Notice published February 17, 2019, in The Record Eagle.
- d. Amendment #73 regarding language changes in Articles 6, 7 and 14
- e. Presentations: None
- f. Correspondence received: None
- g. Public Comment: None.
- h. Close Public Hearing: 7:06 p.m.

PC discussion, decision and action:

**MOTION** by Savage, second by Jacobson to send to the Board for approval Amendment #73:

Roll Call vote: Dean-Yes; Jacobson-Yes; Hooper-NA; Mangus-NA; Lawson-Yes; Savage-Yes. Motion carried.

- a. Open Public Hearing at 7:06.
- b. Attendance sign in request
- c. Notice published February 17, 2019, in The Record Eagle.
- d. Amendment #74 regarding Article 6.
- e. Presentations: None
- f. Correspondence received: none
- g. Public Comment: None.
- h. Close Public Hearing: 7:07 p.m.

PC discussion, decision and action:

**MOTION** by Lawson, second by Savage to send to the Board for approval Amendment #74:

Roll Call vote: Dean-Yes; Jacobson-Yes; Hooper-NA; Mangus-NA; Lawson-Yes; Savage-Yes. Motion carried.

Approval of Minutes:

MOTION to approve February 6, 2019, Regular Meeting Minutes by Jacobson, second by Savage. All in favor. Motion carried.

Correspondence: None

Reports:

*Zoning Administrator Report, Wolf:* Have received the bios and pics from most of you – thank you. Have had several calls on the status of event barns. Survey for the April newsletter is being worked on.

*Chair's Report, Dean:* One section in the water front, vegetative strip – clarification on changes. It would good to know the specific changes that come back from the attorney before we take it to public hearing.

*Township Board Rep., Lawson:* Supervisor Popp has taken a medical leave. Ron Bach is Deputy Supervisor. It is budget time. Planning Commission will be provided computers and an email for each commissioner. It is the board's consensus to have the ZA sit at the table. Whitewater Township has received two grants: \$7,500 for renovations for the showers at the park and \$27,600 for extrication equipment for the emergency services / fire department. Recodification will include the general ordinance. Survey for event barns is going out in April, with the newsletter or on its own as decided by the board. Update of the Master Plan is coming up. Training Redevelopment Communities in August and September for continuing education.

*ZBA Representative, Hooper:* No meetings. Meetings are scheduled in March and April

*Committee Reports:* None.

*Additional Items:* None.

**Unfinished Business**

1. Recodification: Price quotes. Date preference for joint meeting in April 9, possibly.

**New Business:**

1. None

Next Regular Meeting April 3, 2019, Agenda items:

Review of PA 33 and 110 process.

Environmentally sensitive ordinance #27.

5 acre discussion, in the board / attorney court.

Discussion of April 9, joint meeting regarding recodification

**Public Comment:** None.

**Commission Discussion/Comments:** .

**Continuing Education:** None.

**Adjournment:** 7:37 p.m.

Respectfully Submitted

Lois MacLean,

Recording Secretary

DRAFT

**Office of the  
Whitewater Township  
Supervisor**

# Memo

**To:** Whitewater Township Board  
**From:** Ron Popp, Supervisor  
**CC:** Whitewater Township Planning Commission Chairwoman, Kim Mangus  
**Date:** 3-6-2019  
**Re:** Stand-alone Storage Buildings and Temporary Uses –

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Board Members,

The following is a request from Whitewater Township Planning Commission Chairwoman Kim Mangus to review and forward to Township Counsel, Mr. Chris Patterson, for final edit two recommendations from the Planning Commission.

In the interest of time, I understand it is the wish of the Planning Commission, that the Township Board use line item modification for any concerns they see with the offerings and still pass it along to counsel for review, and full comment, preparing a redline document, for use at their next public hear yet to be scheduled.

Thank you for your work.



Ron Popp  
Supervisor, Whitewater Township

## Ron Popp

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**From:** S and K <skmangus@ymail.com>  
**Sent:** Monday, February 11, 2019 5:14 PM  
**To:** Ron Popp  
**Subject:** Pending Amendments  
**Attachments:** Ord Sample - 37 - STAND ALONE STORAGE BUILDINGS.docx; Article 37.10 - Temporary Buildings and Uses - TB Preliminary Review.docx

Supervisor Ron Popp and the Township Board,

This February the PC received a letter forwarded from Ms. Wolfe regarding the Stand Alone Storage Building Ordinance that the PC completed last May requesting a status update. After some discussion the PC would respectfully like to request that the township board consider the remaining two portions of the ZO which were previously approved for Public Hearing. It was our consensus that it would be in the township's best interests to have these amendments passed and reviewed with the balance of the ordinance during the recodification process. The two ordinances were as follows:

\*The Stand Alone Storage Building ordinance was designed to better define rules regarding building without a primary residence and the corresponding ZBA requests. This amendment might require some community outreach in addition to the state requirements. The PC would also be particularly open to the TB's input on the provision in the R1 district.

\*Temporary Uses clarified the existing text as part of our Article 37 review.

Please give me a call if you would like any further information on these amendments. Thank you for your consideration of this matter.

Kim Mangus,  
PC Chair

The following text is a DRAFT under review by the WWTS Planning Commission.

**Color Code:** Proposed New Verbiage Notes

Goal: Establish standards for the construction and use of existing or proposed storage buildings without an accompanying residential structure.

## Stand Alone Storage Buildings

### Article 3, Definitions

**STAND ALONE STORAGE BUILDING:** A structure such as a garage, shed, or pole building used for storage of personal property such as vehicles, equipment, boats, ORVs, or personal belongings.

### Article 37

37.12 Stand Alone Storage Buildings shall be permitted subject to the following conditions:

1. Building may not be used as a dwelling.
2. Building shall not be used for profit, or as a retail establishment.
3. Storage Buildings in the R1, R2, and R3 districts shall not exceed 10% of the total buildable area of the lot. Any proposed building that exceed 10% shall be consider by special use permit.
4. Building in the Ag and RC districts shall not exceed 10% of the total buildable area of the lot nor 5000 square feet. Any proposed building that exceed these standards shall be consider by special use permit.
5. Storage sheds that do not require a building permit shall be allowed in all districts and shall be treated as personal property.
6. Agriculturally exempt building used in the care or production of crops or livestock are not subject to the preceding criteria.
7. Storage Buildings built on a parcel of land with an existing residential structure or where a residential structure is being established are accessory structures and not subject to the preceding criteria.

### Quick Reference

24x24= 576	24x36= 864	32x36= 1,152
30x40= 1,200	36x50= 1,800	40x60= 2,400

The following text is a DRAFT under review by the WWTS Planning Commission.

# The following text is a DRAFT under review by the WWTS Planning Commission.

Goals: Review standards, readopt to address possible publishing issues.

Notes:

\*Addressing the following text will address all housekeeping issues with Amendment #63.

\*Article 37.10 originated 2-21-2011 by Amendment #63 with no alterations.

Original	Changes	Notes/Rational	Removed Text
<b>EXISTING</b>			
Article XXXVII			
Supplementary Provisions			

## 37.10 Temporary Buildings and Uses

- A. Permitted Temporary Buildings and Uses. The following buildings and uses are permitted subject to meeting all of the following requirements of this section:
1. Temporary Dwellings. No temporary dwelling shall be erected or moved onto a lot and used for dwelling purposes except during construction of a permanent dwelling on the premises which has been issued a building permit and conforms to the following:
    - a) The residence under construction shall conform to all other Township Ordinances.
    - b) The reasonable date for removal of the temporary dwelling, established on the permit issued by the Zoning Administrator, shall not exceed ninety (90) days from the date of occupancy of the permanent structure.
    - c) The temporary dwelling shall be connected to a water supply and sewage disposal system approved by the Grand Traverse County Environmental Health Department.
    - d) The applicant for a temporary dwelling permit shall complete the "Temporary Dwelling Agreement" as adopted by the Township Board.
  2. Temporary Use of an Existing Residence during Construction of New Residence. A property owner may utilize an existing residence while building a new home on the same parcel of land when conforming with the following:
    - a) The residence under construction shall conform to all other Township Ordinances.
    - b) The reasonable date for removal of the temporary dwelling, established on the permit issued by the Zoning Administrator, shall not exceed ninety (90) days from the date of occupancy of the permanent structure.
    - c) The applicant for a temporary dwelling permit shall complete the "Temporary Dwelling Agreement for the use of Existing Homes" as adopted by the Township Board.
  3. Temporary Camping. A property owner shall be entitled to a camping permit for on their private property as a temporary recreational use when conforming with the following: (removes permit requirement but leaves standards in place)
    - a) The structure shall not be permanently connected to a water supply, electrical supply, septic system, natural gas supply, nor permanently attached to a foundation.
    - b) No "gray water" or sewage shall be drained or dumped from the structure, except into such collection vehicles, or septic disposal systems as may be approved by the Grand Traverse County Environmental Health Department.
    - c) The maximum duration of stay shall not exceed one hundred and twenty (120) days per year.

The following text is a DRAFT under review by the WWTS Planning Commission.

- d) All camping activities shall be kept 50 feet from the ordinary high water mark.
  - e) Camping activities shall not be a nuisance to surrounding property.
4. Temporary Construction Structures. Temporary structures used for storage of equipment and construction offices may be used only during the construction of a permanent structure(s) which has been issued a building permit. The temporary structures shall be removed from the site prior to the issuance of a certificate of occupancy.
5. Special Events and Other Temporary Uses. The Township Zoning Administrator may grant a land use permit for the temporary use of land and structures for special events and other temporary uses as listed below:
- a) Carnival, Circus and Musical Concert or other Transient Entertainment or Recreational Enterprise
  - b) ~~Sidewalk or Tent Sale or other Similar Outdoor Sale (Removed as standard business insurance is sufficient for this activity and a Land Use Permit is excessive when sales are simply moving outdoors instead of indoors.)~~
  - c) Other Special Events as deemed similar by the Zoning Administrator.

(After extensive discussion, Sections B and C were removed as they:

- Call for too much discretionary enforcement on the part of the ZA
- Subjective enforcement could open us up to litigation
- They are too invasive, have not been a problem, and have not been enforced since adoption even when activity has taken place.
- The Land Use requirement was added/moved to Temporary Commercial Uses as listed in A, 5 as it was the only appropriate section for such a requirement.)

- B. ~~Temporary Building or Use Permit. A temporary building or use shall require issuance of a land use permit from the Zoning Administrator under Article 17 of this Ordinance. The Zoning Administrator shall make a determination that the location of a temporary building or use will not adversely affect adjoining properties, not adversely affect the public health, safety, and the general welfare of the Township. The permit shall set forth all conditions to be placed and may require a fee as established by the Township Board.~~
- C. ~~Performance Guarantee. The Township may require a deposit by the applicant in the form of a certified check, cash or letter of credit in an amount sufficient to hold the Township free of all liabilities incident to the operation of a temporary building or use, to indemnify any adjoining land owner for any damages resulting from the operation of such activity and to ensure proper cleanup after the temporary use and removal of all temporary structures. The amount of the guarantee shall be estimated by the Zoning Administrator. The Township shall rebate to the applicant upon satisfactory removal of all temporary uses and structures.~~

**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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

*The People of the State of Michigan enact:*

**ARTICLE I.**  
**GENERAL PROVISIONS**

**125.3801 Short title.**

Sec. 1. This act shall be known and may be cited as the "Michigan planning enabling act".

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3803 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 September 1, 2008 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.

(l) "Public transportation agency" means a governmental entity that operates or is authorized to operate

intercity or local commuter passenger rail service in this state or a public transit authority created under 1 of the following acts:

- (i) The metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.
- (ii) The public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479.
- (iii) 1963 PA 55, MCL 124.351 to 124.359.
- (iv) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.
- (v) The revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.
- (vi) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.
- (vii) The urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.
- (m) "Public transportation facility" means that term as defined in section 2 of the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.402.
- (n) "Street" means a street, avenue, boulevard, highway, road, lane, alley, viaduct, or other public way intended for use by motor vehicles, bicycles, pedestrians, and other legal users.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

### **125.3805 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3807 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 and provide for safe and efficient movement of people and goods by motor vehicles, bicycles, pedestrians, and other legal users.
  - (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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010.

## ARTICLE II.

### PLANNING COMMISSION CREATION AND ADMINISTRATION

#### **125.3811 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3813 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3815 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, 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 territory 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 but are qualified electors of another local unit of government:

(a) 3, in a city that on September 1, 2008 had a population of more than 2,700 but less than 2,800.

(b) 2, in a city or village that has, or on September 1, 2008 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 September 1, 2008 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 105, Imd. Eff. June 29, 2010.

**125.3817 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3819 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3821 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3823 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3825 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**ARTICLE III.**

**PREPARATION AND ADOPTION OF MASTER PLAN**

**125.3831 Master plan; preparation by planning commission; 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 area or of the county as a whole.

(b) For a township that on September 1, 2008 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, public transportation agencies, 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

**125.3833 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 or certain elements; specifications; section subject to MCL 125.3881(1); public transportation facilities.**

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, subject to subsection (5), public transportation facilities, 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 all of the following:

(i) All components of a transportation system and their interconnectivity including streets and bridges, public transit including public transportation facilities and routes, bicycle facilities, pedestrian ways, freight facilities and routes, port facilities, railroad facilities, and airports, to provide for the safe and efficient movement of people and goods in a manner that is appropriate to the context of the community and, as applicable, considers all legal users of the public right-of-way.

(ii) Waterways and waterfront developments.

(iii) Sanitary sewers and water supply systems.

(iv) Facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels.

(v) 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 is or includes a master street plan or 1 or more elements described in subsection (2)(b)(i), the means for implementing the master street plan or elements 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.

(4) This section is subject to section 81(1).

(5) The reference to public transportation facilities in subsection (2)(a) only applies to a master plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

### **125.3835 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3837 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3839 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, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system 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.

History: 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

### **125.3841 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 municipal 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 municipal 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, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system 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)(e) 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

**125.3843 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).

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3845 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3847 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3849 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3851 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

#### ARTICLE IV.

#### SPECIAL PROVISIONS, INCLUDING CAPITAL IMPROVEMENTS AND SUBDIVISION REVIEW

##### **125.3861 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

##### **125.3863 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

##### **125.3865 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3867 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3869 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3871 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 platted 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

## ARTICLE V. TRANSITIONAL PROVISIONS AND REPEALER

### **125.3881 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 a 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3883 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3885 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).

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**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.

**History:** 2006, Act 110, Eff. July 1, 2006.

*The People of the State of Michigan enact:*

**ARTICLE I**  
**GENERAL PROVISIONS**

**125.3101 Short title.**

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

**History:** 2006, Act 110, Eff. July 1, 2006.

**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 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(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 507.

(j) "Family child care home" and "group child 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 child 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" means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a 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) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (r) "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.
- (s) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.
- (t) "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 individuals under 24-hour supervision or care.
- (u) "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.
- (v) "Zoning commission" means a zoning commission as described under section 301.
- (w) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or 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 a township zoning ordinance.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **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 conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

(4) A notice under this section 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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

## 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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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 unit of 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 or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

(2) Except as provided in subsection (3), the zoning commission shall give a notice of a proposed rezoning in the same manner as required under section 103.

(3) For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of section 103(2) and the requirement of section 103(4)(b) that street addresses be listed do not apply to that group of adjacent properties.

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

(5) An amendment to conform 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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted before or after March 28, 2001; applicability of public transportation facilities.**

Sec. 203. (1) A 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 ensure 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 including, subject to subsection (5), public 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. A zoning ordinance shall be made with reasonable consideration of 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 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.

(5) The reference to public transportation facilities in subsection (1) only applies to a plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2010, Act 305, Imd. Eff. Dec. 17, 2010.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

\*\*\*\*\* *125.3205 THIS SECTION IS AMENDED EFFECTIVE MARCH 12, 2019: See 125.3205.amended*  
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#### **125.3205 Zoning ordinance subject to certain acts; regulation or control of oil or gas wells; prohibition; extraction of valuable natural resource; challenge to zoning decision; serious consequences resulting from extraction; factors; regulations not limited.**

Sec. 205. (1) A zoning ordinance is subject to all of the following:

(a) The electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(b) The regional transit authority act.

(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.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in Silva v Ada Township, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) This act does not limit state regulatory authority under other statutes or rules.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2011, Act 113, Imd. Eff. July 20, 2011;—Am. 2012, Act 389, Eff. Mar. 28, 2013.

\*\*\*\*\* *125.3205.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 12, 2019 \*\*\*\*\**

**125.3205.amended Zoning ordinance subject to certain acts; regulation or control of oil or gas wells; prohibition; extraction of valuable natural resource; challenge to zoning decision; serious consequences resulting from extraction; factors; regulations not limited.**

Sec. 205. (1) A zoning ordinance is subject to all of the following:

- (a) The electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.
- (b) The regional transit authority act, 2012 PA 387, MCL 124.541 to 124.558.
- (c) The small wireless communications facilities deployment act.

(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.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

- (a) The relationship of extraction and associated activities with existing land uses.
- (b) The impact on existing land uses in the vicinity of the property.
- (c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- (d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- (e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- (f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) This act does not limit state regulatory authority under other statutes or rules.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2011, Act 113, Imd. Eff. July 20, 2011;—Am. 2012, Act 389, Eff. Mar. 28, 2013;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

**125.3205a Amateur radio service station antenna structures.**

Sec. 205a. (1) 47 CFR 97.15 provides that owners of certain amateur radio service station antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the federal aviation administration and register with the federal communications commission as required by 47 CFR part 17.

(2) An amateur radio service station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur radio service communications. Regulation of an amateur radio service station antenna structure by a local unit of government must not preclude amateur radio service communications. Rather, it must reasonably accommodate those communications and must constitute the minimum practicable regulation to accomplish the local unit of government's legitimate purpose.

(3) To obtain information about the regulation of amateur radio service station antenna structures, a person

may contact any advisory board that is jointly established by the Michigan section of the American radio relay league and 1 or more state organizations representing local units of government.

**History:** Add. 2014, Act 556, Imd. Eff. Jan. 15, 2014.

\*\*\*\*\* *125.3205d.added THIS ADDED SECTION IS EFFECTIVE MARCH 28, 2019 \*\*\*\*\**

**125.3205d.added Zoning ordinance; prohibition or regulation of commemorative signs.**

Sec. 205d. (1) A zoning ordinance shall not regulate or prohibit a sign that is located on or within a building and that commemorates any of the following:

- (a) Any of the following who die in the line of duty:
  - (i) Police officers.
  - (ii) Firefighters.
  - (iii) Medical first responders.
  - (iv) Members of the United States Armed Forces.
  - (v) Corrections officers.

(b) Veterans of the United States Armed Forces.

(2) As used in this section, "medical first responder" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

**History:** Add. 2018, Act 506, Eff. Mar. 28, 2019.

\*\*\*\*\* *125.3206 THIS SECTION IS AMENDED EFFECTIVE MARCH 28, 2019: See 125.3206.amended \*\*\*\*\**

**125.3206 Residential use of property; adult foster care facilities; family or group child 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 child 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 child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child 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 child care home.

(ii) An 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 child 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 child care home between the hours of 10 p.m. and 6 a.m.

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

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

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group child 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 child 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 child 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 child 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 child 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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007.

\*\*\*\*\* 125.3206.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 28, 2019 \*\*\*\*\*

### **125.3206.amended Residential use of property; adult foster care facilities; family or group child care homes.**

Sec. 206. (1) Except as provided in subsection (2), each of the following is 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:

(i) A state licensed residential facility.

(ii) A facility in use as described in section 3(4)(k) of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(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 child care home is 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 child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child 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 child care home.

(ii) An 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 use disorder services to 7 or more people that is licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251.

(iv) A community correction center, resident home, halfway house, or other similar facility that 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 child 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 child care home between the hours of 10 p.m. and 6 a.m.

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

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

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with this section.

(7) This section does not prohibit a local unit of government from inspecting a family or group child care home for the home's compliance with and enforcing 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 child care home than 1973 PA 116, MCL 722.111 to 722.128.

(8) The establishment of any of the facilities listed under subsection (4)(a) after issuance of a special use permit, conditional use permit, or other similar permit pertaining to the group child care home does not affect

renewal of that permit.

(9) This section does not prohibit a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed group child 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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2018, Act 513, Eff. Mar. 28, 2019.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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 zoning ordinance or amendment. This subsection is intended to codify the law as it existed before July 1, 2006 in section 16(1) of the former county zoning act, 1943 PA 183, section 16(1) of the former township zoning act, 1943 PA 184, and section 3a(1) of the former city and village zoning act, 1921 PA 207, as they applied to counties, townships, and cities and villages, respectively, and shall be construed as a continuation of those laws and not as a new enactment.

(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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

## 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 unless 1 of the following applies:

(a) A county zoning commission created under former 1943 PA 183, a township zoning board created under former 1943 PA 184, or a city or village zoning commission created under former 1921 PA 207 was in existence in the local unit of government as of June 30, 2006. Unless abolished by the legislative body, that existing board or commission shall continue as and exercise the powers and perform the duties of a zoning commission under this act, subject to a transfer of power under subsection (2).

(b) A planning commission was, as of June 30, 2006, in existence in the local unit of government and pursuant to the applicable planning enabling act exercising the powers and performing the duties of a county zoning commission created under former 1943 PA 185, of a township zoning board created under former 1943 PA 184, or of a city or village zoning commission created under former 1921 PA 207. Unless abolished by the legislative body, that existing planning commission shall continue and exercise the powers and perform the duties of a zoning commission under this act.

(c) The local unit of government has created a planning commission on or after July 1, 2006 and transferred the powers and duties of a zoning commission to the planning commission pursuant to the applicable planning enabling act.

(2) Except as otherwise provided under this subsection, if the powers and duties of the zoning commission have been transferred to the planning commission as provided by law, the planning commission shall function as the zoning commission of the local unit of government. By July 1, 2011, the legislative body shall transfer the powers and duties of the zoning commission to the planning commission. Except as provided under this subsection, beginning July 1, 2011, a zoning commission's powers or duties under this act or an ordinance adopted under this act shall only be exercised or performed by a planning commission.

(3) If a zoning commission is created on or after July 1, 2006, 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 fewer than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or will be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on June 30, 2006.

(4) The members of a 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 under subsection (3) 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 the same 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 on a zoning commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

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

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

(10) A zoning commission shall elect from its members a chairperson, a secretary, and other officers and 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.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

## 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 sections 202 and 308(1), the legislative body may hold a public hearing if it considers it necessary or if otherwise required.

(2) Notice of a public 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 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 an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the requirements of section 103, except that notice of the hearing shall be given to the interested property owner in the manner required in section 103(3) and (4).

(5) After any proceedings under subsections (1) to (4), 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 subsection (7) or at such later date after publication as may be specified by the legislative body or charter.

(7) Following adoption of a zoning ordinance or 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 or charter requirements relating to the filing and publication of county, township, city, or village ordinances.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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).

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

**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.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3406 Zoning permits; fees; effect of delinquent payment of fine, costs, or assessment.**

Sec. 406. (1) The legislative body may charge reasonable fees for zoning permits as a condition of granting authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

(2) A zoning ordinance adopted by a city may provide that a person is not eligible to apply for a rezoning, site plan approval, special land use approval, planned unit development approval, variance, or other zoning authorization if the person is delinquent in paying a civil fine, costs, or a justice system assessment imposed by an administrative hearings bureau established in that city pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

(3) A zoning ordinance provision adopted under subsection (2) does not apply to an applicant for a zoning authorization if the applicant became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure and is 1 of the following:

(a) A government-sponsored enterprise. As used in this subdivision, "government-sponsored enterprise" means that term as defined in 2 USC 622(8), or the Michigan state housing development authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) A financial institution. As used in this subdivision, "financial institution" means that term as defined in section 4(c) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(c) A mortgage servicer, as that term is defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, that is subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A credit union service organization that is organized under the laws of this state or the United States.

(4) Subsection (2) does not apply to a zoning authorization if the authorization will correct, in whole or in part, the blight violation that was the subject of the delinquent payment referred to in subsection (2).

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2013, Act 189, Eff. Mar. 14, 2014.

**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 1 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.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law. This subdivision applies only to a city that establishes an administrative hearings bureau pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

## 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 is agreed to by 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.

(4) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(5) 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 statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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 insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. 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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **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).

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3513 Biofuel production facility as permitted use of property; requirements; special land use approval; application; hearing; conditions; applicability of subsections (2) to (5); authority of local unit of government; definitions.**

Sec. 513. (1) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel is a permitted use of property and is not subject to special land use approval if all of the following requirements are met:

(a) The biofuel production facility is located on a farm.

(b) The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all applicable setback requirements of the zoning ordinance.

(c) On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

(2) Subject to subsections (6) and (7), each of the following is a permitted use of property if it receives special land use approval under subsections (3) to (5):

(a) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b) but that does not meet the requirements of subsection (1)(c).

(b) A biofuel production facility with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b).

(3) An application for special land use approval for a biofuel production facility described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) A description of the process to be used to produce biofuel.

(c) The number of gallons of biofuel anticipated to be produced annually.

(d) An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.

(e) For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.

(f) Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).

(g) Any additional information requested by the body or official responsible for granting special land use approval and relevant to compliance with a zoning ordinance provision described in section 502(1) or 504.

(4) A local unit of government shall hold a hearing on an application for special land use approval under subsection (2) not more than 60 days after the application is filed. For the purposes of this section, the notice required under section 502(2) shall provide notice of the hearing, rather than notice of a right to request a

hearing.

(5) Special land use approval of a biofuel production facility described in subsection (2) shall be made expressly conditional on the facility's meeting all of the following requirements before the facility begins operation and no additional requirements:

(a) Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.

(b) The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:

(i) Air pollution emissions.

(ii) Transportation of biofuel or additional products resulting from biofuel production.

(iii) Use or reuse of additional products resulting from biofuel production.

(iv) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.

(c) The biofuel production facility includes sufficient storage for both of the following:

(i) Raw materials and fuel.

(ii) Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

(6) Subsections (2) to (5) do not apply to a biofuel production facility if the zoning ordinance provides different criteria for special land use approval of a biofuel production facility located on a farm. An amendment to a zoning ordinance adopted only to provide such criteria is not subject to a protest petition under section 403.

(7) A local unit of government may authorize a biofuel production facility described in subsection (2) as a permitted use of property not subject to a special land use approval.

(8) This section does not affect the authority of a local unit of government to prohibit or authorize biofuel production facilities that are not located on farms.

(9) As used in this section:

(a) "Biofuel" means any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.

(b) "Ethanol" means a substance that meets the ASTM international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

(c) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(d) "Proof gallon" means that term as defined in 27 CFR 19.907.

**History:** Add. 2011, Act 97, Imd. Eff. July 19, 2011.

\*\*\*\*\* *125.3514 THIS SECTION IS AMENDED EFFECTIVE MARCH 12, 2019: See 125.3514.amended*  
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#### **125.3514 Wireless communications equipment as permitted use of property; application for special land use approval; approval or denial; authorization by local unit of government; definitions.**

Sec. 3514. (1) Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this act if all of the following requirements are met:

(a) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or official for the local unit of government.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official

of the local unit of government.

(2) Wireless communications equipment that meets the requirements of subsection (1)(a) and (b) but does not meet the requirements of subsection (1)(c) or (d) is a permitted use of property if it receives special land use approval under subsections (3) to (6).

(3) An application for special land use approval of wireless communications equipment described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) Any additional relevant information that is specifically required by a zoning ordinance provision described in section 502(1) or 504.

(4) After an application for a special land use approval is filed with the body or official responsible for approving special land uses, the body or official shall determine whether the application is administratively complete. Unless the body or official proceeds as provided under subsection (5), the application shall be considered to be administratively complete when the body or official makes that determination or 14 business days after the body or official receives the application, whichever is first.

(5) If, before the expiration of the 14-day period under subsection (4), the body or official responsible for approving special land uses notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (4) is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the local unit of government's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

(6) The body or official responsible for approving special land uses shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the body or official fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval.

(7) Special land use approval of wireless communications equipment described in subsection (2) may be made expressly conditional only on the wireless communications equipment's meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operation.

(8) If a local unit of government requires special land use approval for wireless communications equipment that does not meet the requirements of subsection (1)(a) or for a wireless communications support structure, subsections (4) to (6) apply to the special land use approval process, except that the period for approval or denial under subsection (6) is 90 days.

(9) A local unit of government may authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.

(10) As used in this section:

(a) "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

(b) "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

(c) "Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(d) "Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

**History:** Add. 2012, Act 143, Imd. Eff. May 24, 2012.

**Compiler's note:** Sec. 3514. should evidently read "Sec. 514."

\*\*\*\*\* 125.3514.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 12, 2019 \*\*\*\*\*

**125.3514.amended Wireless communications equipment as permitted use of property; application for special land use approval; approval or denial; authorization by local unit of government; definitions; applicability to small cell wireless communications facilities.**

Sec. 514. (1) Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this act if all of the following requirements are met:

(a) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or official for the local unit of government.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the local unit of government.

(2) Wireless communications equipment that meets the requirements of subsection (1)(a) and (b) but does not meet the requirements of subsection (1)(c) or (d) is a permitted use of property if it receives special land use approval under subsections (3) to (6).

(3) An application for special land use approval of wireless communications equipment described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) Any additional relevant information that is specifically required by a zoning ordinance provision described in section 502(1) or 504.

(4) After an application for a special land use approval is filed with the body or official responsible for approving special land uses, the body or official shall determine whether the application is administratively complete. Unless the body or official proceeds as provided under subsection (5), the application shall be considered to be administratively complete when the body or official makes that determination or 14 business days after the body or official receives the application, whichever is first.

(5) If, before the expiration of the 14-day period under subsection (4), the body or official responsible for approving special land uses notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (4) is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the local unit of government's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

(6) The body or official responsible for approving special land uses shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the body or official fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval.

(7) Special land use approval of wireless communications equipment described in subsection (2) may be made expressly conditional only on the wireless communications equipment's meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operation.

(8) If a local unit of government requires special land use approval for wireless communications equipment that does not meet the requirements of subsection (1)(a) or for a wireless communications support structure, subsections (4) to (6) apply to the special land use approval process, except that the period for approval or denial under subsection (6) is 90 days.

(9) A local unit of government may authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.

(10) This section does not apply to an activity or use that is regulated by the small cell wireless communications facilities deployment act.

(11) As used in this section:

(a) "Colocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

(b) "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

(c) "Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(d) "Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

**History:** Add. 2012, Act 143, Imd. Eff. May 24, 2012;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

## ARTICLE VI

### ZONING BOARD OF APPEALS

#### **125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate member; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.**

Sec. 601. (1) A zoning ordinance shall create a zoning board of appeals. A zoning board of appeals in existence on June 30, 2006 may continue to act as the zoning board of appeals subject to this act. Subject to subsection (2), members of a zoning board of appeals shall be appointed by majority vote of the members of the legislative body serving.

(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) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or 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.

(4) In a county or township, 1 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 planning commission is functioning as the zoning commission. In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2). A decision made by a city or village zoning board of appeals before February 29, 2008 is not invalidated by the failure of the zoning board of appeals to include a member of the city or village zoning commission or planning commission, as was required by this subsection before that date.

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member 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.

(7) The legislative body may appoint to the zoning board of appeals not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified in the zoning ordinance 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. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

(8) 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.

(9) 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 a 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.

(10) The terms of office for an appointed member of the zoning board of appeals shall be 3 years, except

for a member serving because of his or her membership on the zoning commission or legislative body, whose term shall be limited to the time he or she is a member of that body. When members are first appointed, 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.

(11) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(12) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.

(13) A member of the zoning board of appeals who is also a member of the zoning commission, the planning commission, or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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 this state or the 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 prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals 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. However, if 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, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written 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) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear personally 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 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 does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **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.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **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 from a decision of a zoning board of appeals shall be filed within whichever of the following deadlines comes first:

(a) Thirty days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson.

(b) Twenty-one days after the zoning board of appeals approves the minutes of its decision.

(4) The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, Rendered Thursday, February 28, 2019

2010.

**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.

**History:** 2006, Act 110, Eff. July 1, 2006.

**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.

**History:** 2006, Act 110, Eff. July 1, 2006.

**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 does not alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on June 30, 2006 or any ordinance, order, permit, or decision that was based on the acts repealed under subsection (1). The zoning ordinance need not be readopted but is subject to the requirements of this act, including, but not limited to, the amendment procedures set forth in this act.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.



General Law

The  
2006

# Michigan Zoning

Enabling



Act

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# Introduction

The new **Michigan Zoning Enabling Act (ZEA)**, Public Act 110 of 2006, [MCL 125.3101](#), et seq., will repeal the Township Zoning, the County Zoning, and the City and Village Zoning Acts on July 1, 2006, and replace those acts with a combined law designed to promote consistency in zoning procedures and approvals.

Each township with a zoning ordinance should begin to review that ordinance to determine whether the ZEA will require amendments to the ordinance. Townships are urged to consult their local planning consultants and legal counsel for specific guidance on appropriate changes to their ordinances, zoning bodies, and zoning procedures.

This guide attempts to focus on the implications of the new law that may potentially affect a number of township zoning ordinances. It does not address topics such as airport zoning not likely to affect most townships.

In general, the more comprehensive a township's zoning ordinance, the more likely text amendments will be required to comply with the ZEA. Although the substantive provisions of the ZEA concerning such matters as special land uses, site plan review, PUD, conditional zoning, etc., appear to be largely unchanged from the comparable existing provisions in the TZA, there are some slight differences in text. The more a zoning ordinance has included existing statutory language on these substantive issues, the more likely those provisions may need to be amended.

*Note that these changes affect only townships that have a zoning ordinance. If your township does not currently zone and does not have a zoning ordinance, you do not need to take any action.*

**If your township already has a planning commission that has been given zoning powers by the township board, refer to Part I (see page 2).**

**If your township currently has a planning commission AND a zoning board OR if your township has ONLY a planning commission, you must ALSO refer to Part II (see page 11).**

*(Note that a "zoning board of appeals" is NOT a "zoning board." Every township that has a zoning ordinance must have a zoning board of appeals.)*

# **Part I: What every township that zones should know about the ZEA**

## **How much of your zoning ordinance do you need to change?**

Compliance with the new ZEA will likely require some amendments of the "typical" township zoning ordinance. It is not possible for the MTA to inform its members precisely which provisions of their respective zoning ordinances will require amendment, due to differences in zoning ordinances throughout the many townships that zone.

MTA Legal Counsel recommend that each township with a zoning ordinance should try to have any necessary text amendments adopted and in effect by July 1. The township should begin now to review that ordinance to determine whether the ZEA will require it to be amended. Townships are urged to consult their local planning consultants and legal counsel for specific guidance on appropriate changes to their ordinances, zoning bodies, and zoning procedures.

Note, however, that not all ordinance provisions that differ from the ZEA will be unauthorized by law. Section 202 of the ZEA permits a township to "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." (MCL 125.3202) It is the opinion of MTA Legal Counsel that this allows a township to impose additional notice requirements or other procedures on itself by ordinance. For example, where a township's zoning ordinance includes current TZA notice requirements that exceed the ZEA's requirements, by requiring two notices, etc., the township may continue to follow those provisions, even though they may represent the requirements of the TZA.

In addition, although the ZEA makes significant changes to township authority for nonconforming uses/structures and variances, few immediate ordinance amendments will be required by the ZEA. For example, townships that currently have zoning ordinance provisions specifically authorizing use variances—and wish to discontinue that authority—will be required to amend those provisions. Townships that do not currently include specific procedures and the ZEA's clarified standards for granting variances (non-use, and possibly use) must amend their ordinances to include them.

## **What rules should you follow to amend your zoning ordinance?**

### **■ For zoning ordinance changes completed before July 1, 2006:**

The **TZA** will continue to govern all steps of the text amendment process until July 1, 2006. MTA's [General Law](#) or [Charter Township](#) TZA Zoning Ordinance Checklists are available on the MTA Web site or by fax or mail by contacting MTA at (517) 321-6467.

### **■ For zoning ordinance changes not completed before or changes started after July 1, 2006:**

A township that does not complete the amendment process before July 1, 2006, will be subject to the requirements of the new **ZEA** with respect to all steps of the process not completed as of July 1, 2006. Revised ZEA Zoning Ordinance Checklists will be available from MTA before July 1, 2006.

## **Should you include the new ZEA requirements in your zoning ordinance?**

A township has three options for how to handle changes to the zoning ordinance as a result of the ZEA:

- 1) Delete the old requirements and specify the new requirements;
- 2) Delete the old requirements and simply reference the ZEA, without specifying the new requirements; or
- 3) Simply delete the old requirements and add no new provisions at all. For example, zoning notices must be given in the manner specified by the ZEA regardless of whether or not those requirements are included in the ordinance.

MTA Legal Counsel recommend that it is legally unnecessary and also inadvisable to specify the details of ZEA requirements in the ordinance text, because any future amendments based on subsequent changes in the law will have to go through the complete process to amend the zoning ordinance.

In some townships, the zoning ordinance has been relied on as a “manual” of the township’s zoning policies and procedures. The review and editing required by the change in the law now provide an opportunity for a township to do a major “overhaul” of its zoning ordinance and to develop a separate zoning policy manual for use by all township officials and employees involved in the zoning process.

## **Significant changes in the ZEA**

### **1. Zoning notice requirements**

All zoning application/hearing notices must now be published once in a newspaper of general circulation at least 15 days before the date of the meeting at which the application will be considered (or the hearing held, if a hearing is involved). (MCL 125.3103)

The notice must:

- 1) Describe the nature of the zoning request/application/action
- 2) State the time, date, and place of the meeting
- 3) Indicate the property that is the subject of the request (*If the request involves 10 or fewer adjacent properties, the notice must also include a list of all existing street addresses within the properties.*)
- 4) Indicate when and where written comments will be received concerning the request.

If the notice is for planning commission or township board action to adopt an **initial** zoning ordinance, this is the only notice required.

For **all** other zoning notices, if the request involves 10 or fewer adjacent properties (*or the request is for a zoning board of appeals interpretation of the zoning ordinance or appeal of an administrative decision regarding a specific parcel*), the notice must **also** be sent by mail or personal delivery to:

- 1) Owners of property for which the approval is being considered
- 2) All persons to whom real property is assessed within 300 feet of the property
- 3) Occupants of all structures within 300 feet of the property (regardless of whether the property or occupant is located in the township.) If the name of the occupant is not known, the term "occupant" may be used.

Notice of a request for a zoning board of appeals interpretation of the zoning ordinance or appeal of an administrative decision notice must **also** be sent to the person requesting the interpretation. (MCL 125.3604)

**Note:** It is the opinion of MTA Legal Counsel that Section 202(1) of the ZEA authorizes a township to require additional or greater notice requirements. (MCL 125.3202) For example, a township could simply standardize all its zoning notices to the most comprehensive form of notice required by the ZEA, or a township could require additional notice, such as publishing twice. However, the township will be obligated to comply with any additional requirements it imposes on itself. A potential liability will be created if the township fails to comply with its own requirements, as well as all statutory requirements.

## **2. Zoning ordinance adoption, text amendment, and rezoning procedures**

### **A. Procedures for adopting, amending, supplementing, or enforcing the ordinance**

Section 202(1) of the ZEA now authorizes a township to provide by ordinance for the "manner" in which the zoning ordinance shall be amended, supplemented or changed. (MCL 125.3202)

In the opinion of MTA Legal Counsel, this does **not** mean that a township can choose, for example, to give **less notice** than the ZEA requires; but it **does** authorize a township to impose **additional or greater** publication requirements, etc., governing the manner in which amendments will be noticed to the public and considered by the township. In other words, the requirements in the new law are the **minimum requirements** that every township must comply with, but a township may decide to impose additional or greater requirements on itself by enacting appropriate provisions in the zoning ordinance.

**Note:** MTA Legal Counsel do not recommend imposing such additional or greater requirements, because the township will be obligated to comply with any additional requirements it imposes on itself. A potential liability will be created if the township fails to comply with its own requirements, as well as all statutory requirements.

### **B. Optional township board consideration of planning commission/zoning board recommendation on zoning ordinance text amendment or rezoning**

The TZA requires that, when a township board reviews the planning commission/zoning board's recommendation on a proposed zoning ordinance text amendment or rezoning, if the township board considers changes to the recommendation to be necessary, the township board must refer the matter back to the planning commission/zoning board for a further report within a specified time period.

Section 401(3) of the ZEA changes this "refer-back" requirement to an **option**. (MCL 125.3401)

The typical township zoning ordinance does not include any reference to this requirement. A township that does have provisions detailing the procedures for text amendments or rezonings may wish to those provisions to reflect the discretion of the township board under the new law. (As with all of the other matters discussed so far, each township may also choose under Section 202(1) to impose on itself ordinance requirements going beyond the statutory requirements.)

**Note:** It is advisable to mention that constitutional "due process" considerations may still affect whether a township board can approve a text amendment (or rezoning proposal) that is substantively different from the proposal submitted for public hearing before the planning commission/zoning board, without a further properly noticed public hearing at a planning commission/zoning board meeting.

### **C. Township board public hearing on zoning ordinance text amendment or rezoning**

Section 11 of the TZA provides an opportunity for a property owner to require that the **township board** also hold a public hearing at a township board meeting on a proposed zoning ordinance/text amendment (and probably also a proposed rezoning). However, this opportunity is only available where the township board has referred the planning commission/zoning board recommendation back to the zoning board/planning commission to consider changes.

Section 401(4) of the ZEA now requires the township board to grant a hearing on a proposed zoning ordinance text amendment when properly requested by a property owner, before township board adoption of a proposed amendment or rezoning, regardless of whether or not the township board had previously referred the proposal back to the planning commission/zoning board for further consideration of changes desired by the township board. (MCL 125.3401)

The property owner's request for such a township board hearing must be by certified mail, addressed to the township clerk. If such a request is received, the township board is required to hold the requested public hearing at a board meeting, preceded by notice of a hearing as otherwise required by the ZEA for a text amendment or rezoning, as applicable. (MCL 125.3401)

The typical township does not have provisions in its zoning ordinance addressing this circumstance. A township that does have any such provisions will need to amend them to conform with the new law (by spelling out the particular requirements, referencing the applicable law, or simply deleting the provision in its entirety).

## **3. Special land use and planned use development procedures**

### **A. Special land uses**

Section 502(1) of the ZEA requires the zoning ordinance to "specify" the "procedures and supporting materials required for the application, review, and approval of a special land use". Section 16b of the TZA presently has similar language. (MCL 125.3502)

The applicable provisions of each township zoning ordinance will need to be amended as necessary to comply with this requirement in the context of the new ZEA. In the opinion of MTA Legal Counsel, a township may comply with this requirement, at least as to procedures, by detailing the applicable procedures in the provisions of the zoning ordinance addressing special land uses, or by including a reference in those provisions to the applicable procedures detailed either elsewhere in the ordinance or in the ZEA.

**Note on special land use hearings:** As with the existing TZA, the new ZEA technically does not impose these new requirements for notice of a public hearing. Both laws actually require only notice of the request (application) for special land use approval, and of the right of the applicant or a property owner/occupant within 300 feet of the subject property to request a public hearing on the application.

If no request for a public hearing is received the township could review the special land use application without a public hearing, unless such a hearing is required by the zoning ordinance itself. However, since any such public hearing request does trigger a further publication and mailing of the actual public hearing notice, most townships by ordinance or policy dispense with the notice of the statutory right to require a public hearing and simply schedule and give notice of the public hearing itself on the special land use application. This practice is certainly permissible under the TZA and, in the opinion of MTA Legal Counsel, also under the ZEA.

## **B. Planned unit developments**

Where a zoning ordinance designates a "planned unit development" (PUD) as a special land use or otherwise subjects a PUD proposal to the procedures governing special land uses, the typical zoning ordinance may spell out or reference various procedures and notice requirements for a PUD approval and any rezoning required as part of the approval.

Section 503(4) of the ZEA requires the PUD regulations in a zoning ordinance to specify the procedures required for application, review, and approval of a PUD. (MCL 125.503)

The applicable provisions of each township zoning ordinance will need to be amended as necessary to comply with this requirement in the context of the new ZEA. In the opinion of MTA Legal Counsel, a township may comply with this requirement, at least as to procedures, by detailing the applicable procedures in the provisions of the zoning ordinance addressing special land uses, or by including a reference in those provisions to the applicable procedures detailed either elsewhere in the ordinance or in the ZEA.

# **4. Zoning board of appeals (ZBA)**

## **A. ZBA hearing notice**

See the zoning notice requirements on page 5.

## **B. Alternate members**

Section 601(6) greatly simplifies the use of alternate members by allowing them to serve in the event of a regular member's absence or abstention due to conflict of interest:

"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." (MCL 125.3601)

Since both the TZA and the ZEA require the circumstances in which alternate members may be called to serve to be "specified" in the zoning ordinance, many township zoning ordinances already include language regarding alternate ZBA members. These ordinance provisions will

all need to be amended to specify the new circumstances under the ZEA in which an alternate member may be called to serve.

### **C. Thirty days to appeal ZBA decisions to Circuit Court**

Case law and Michigan Court Rules presently establish a 21-day time limit to file an appeal of right from a ZBA decision in the Circuit Court.

Section 606(3) of the ZEA changes this timeline to **30 days** after the ZBA approves the minutes of its decision, or otherwise certifies its decision in writing. (MCL 125.3606)

Zoning ordinance provisions either stating or referencing an appeal period of other than 30 days will need to be appropriately amended (revised or deleted).

## **5. Variances**

### **A. Variance procedures and standards must be established in zoning ordinance**

Section 604(7) of the ZEA now requires a zoning ordinance to establish procedures for zoning board of appeals to review variances. It also requires a zoning ordinance to establish standards for approving variances. (MCL 125.3604)

Every zoning ordinance must be amended as necessary to include appropriate provisions establishing procedures for reviewing and standards for approving the variances available in the specific township (non-use variances in all townships; or both non-use and use variances in some townships).

### **B. Dimensional (non-use) variances**

Section 23 of the TZA presently provides a legal standard of "practical difficulties or unnecessary hardship" for the granting of a non-use (dimensional, etc.) variance by the ZBA. Many township attorneys believe case law has reduced this language to only apply the "practical difficulties" standard for a non-use variance. (MCL 125.293)

Section 604(7) of the ZEA clarifies this issue by expressly imposing the "**practical difficulties**" standard for **non-use** variances. (MCL 125.3604)

As a result, zoning ordinance provisions with "unnecessary hardship" or similar language will need to be amended to comply with the clarified legal standard of "**practical difficulties**" for the granting of **non-use** variance relief.

**Note:** Section 604(8) of the ZEA also clarifies that the authority to grant "non-use" variances applies to the "construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other non-use related standard in the ordinance". (MCL 125.3604)

According to MTA Legal Counsel, this new language will likely require many townships to amend the zoning ordinance where it is necessary or advisable to clarify the extent of the non-use variance authority.

### C. Use variances

The MTA Legal Counsel and many township attorneys have expressed the opinion that a township ZBA does not presently have authority to grant a "use variance" because, unlike the enabling statute for city and village zoning ordinances, the TZA does not include any explicit "use variance" language.

Section 604 of the ZEA addresses this issue head on. (MCL 125.3604)

Section 604(9) gives a township ZBA the authority to grant variances from **uses** of land in **ONLY** the two following limited situations:

**1) If, as of February 15, 2006**, the township had an ordinance that uses the specific phrase "use variance" or "variances from use of land" to expressly authorize the granting of use variances by the ZBA,

**OR**

**2) If, before February 15, 2006**, the township actually granted a use variance.

Only a township falling into one of these two categories **may** exercise use variance authority after July 1, 2006. A **two-thirds vote of the regular members** of the zoning board of appeals is now required to approve a **use** variance. (MCL 125.3604)

Section 604(11) makes clear that this authority is permissive. No township is required to allow for use variances. Even a township with use variance authority under the ZEA has the option to amend its zoning ordinance to eliminate any authorization for its ZBA to grant use variances.

A township that **does** fall into either of the above two situations likely must amend its zoning ordinance provisions pertaining to use variances. The ordinance should properly reference the "unnecessary hardship" legal standard for use variances mandated by Section 604(7) of the ZEA and address the two-thirds vote requirement to approve a use variance imposed by Section 604(10) of the ZEA. Or, such a township may amend its zoning ordinance to eliminate use variance authority.

**Townships that did not either grant a use variance before February 15, 2006, have ordinance provisions expressly authorizing the granting of a "use variance" or "variances from uses of land" as of February 15, 2006, will not have any authority to grant use variances under the ZEA.** Such townships are not likely to have any existing ordinance provisions requiring amendment to address the use variance provisions in the new law.

A township with a zoning ordinance that specifically states the ZBA does **not** have authority to grant a use variance is in the same situation: no text amendment regarding use variances is necessary.

## **6. Nonconforming uses or structures**

### **A. Regulations**

A major change in the new ZEA is its treatment of nonconforming uses and structures.

The TZA stated that a township **shall** provide in its zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of **nonconforming uses** upon reasonable terms set forth in the zoning ordinance. (MCL 125.286)

Section 208(2) of the ZEA now says that a township “**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.” (MCL 125.3208)

According to MTA Legal Counsel, “The substitution of the word ‘may’ for ‘shall’ means each township now has some discretion as to not only how to provide for the extension, etc., of nonconforming uses, but whether to include any such provisions at all in the zoning ordinance.” This means that a township may choose to not allow a nonconforming use or structure to be completed, resumed, restored, reconstructed, extended or substituted. The new language mirrors language in the former City and Village Zoning Act (MCL 125.583a), so townships considering changes to their nonconforming use policies may wish to review case law relating to that statute.

A township is not required to amend any zoning ordinance provisions that otherwise treat nonconforming uses or structures according to the township’s policy on nonconforming uses (strict or permissive). However, each township should review the relevant provisions of its zoning ordinance to determine whether to retain, with or without change, provisions that were previously mandated by law, but are now discretionary.

### **B. New right to appeal decisions regarding nonconforming uses or structures**

Section 607 of the ZEA creates a specific right to Circuit Court review of a decision by any township official or board made under Section 208, such as a decision to purchase or condemn nonconforming use or structure, or a decision to not allow a nonconforming use or structure to be completed, resumed, restored, reconstructed, extended or substituted. (MCL 125.3607) Such an appeal must be filed within 30 days after the decision is certified in writing or the minutes that record the decision are approved. (MCL 125.3606)

MTA Legal Counsel believe that there is no legal necessity for a zoning ordinance to include provisions concerning this statutory right of appeal. However, if a zoning ordinance has existing provisions contrary to the ZEA, those provisions should be revised or deleted.

## **Part II: Every township with a zoning board should prepare to replace it with a planning commission**

Some townships have a zoning board created under the TZA instead of a planning commission established under the Township Planning Act (TPA). A zoning board is different from a zoning board of appeals or a planning commission.

### **How do you know if you have a zoning board?**

Zoning Board/Planning Commission Comparison		
	Zoning Board	Planning Commission
<b>Action to Establish</b>	Township board resolution (No requirement to publish in newspaper)	Township board resolution published in a newspaper of general circulation, subject to public referendum.
<b>Number of Members</b>	4-7 members	5-9 members
<b>Appointed By</b>	Township board	Township supervisor, with township board approval
<b>Appointment Criteria</b>	Qualifications and fitness to serve	Registered voters who are representative of major interests in township
<b>Term of Office</b>	4 years	3 years
<b>Removed By</b>	Township board for misfeasance, malfeasance or nonfeasance, with written charges and public hearing	Township supervisor, with township board approval, following a hearing
<b>Township Board Member</b>	<b>Not permitted</b>	<b>Required</b>
<b>Meetings Per Year</b>	2 minimum	4 minimum
<b>Officers' Terms</b>	2 years	1 year

Under the new ZEA, all **zoning boards** will be phased-out by July 1, 2011. Between now and then, the ZEA allows a zoning board in existence on July 1, 2006, to continue as a **zoning commission**, with the same authority under the ZEA as it presently has as a zoning board under the TZA, but with some additional notice requirements.

**As of July 1, 2011, Section 301(2) of the ZEA strips all authority from all zoning commissions/zoning boards. After that date, only a planning commission can exercise the authority of any previous zoning board or zoning commission.**

**MTA recommends that townships with zoning boards skip the zoning commission step entirely and simply establish a planning commission with zoning powers. This can be done immediately or at any time before July 1, 2011.**

MTA also recommends that any township that establishes a new zoning program/ordinance at any time before July 1, 2011, should also skip the zoning commission step entirely and go straight to establishing a planning commission with zoning powers.

If your township has a zoning board, your zoning ordinance likely includes provisions that refer to the "zoning board." That language does not have to be amended before July 1, 2006, but it must be amended at least by July 1, 2011. The ZEA explicitly allows a zoning board to "continue" as a zoning commission, subject to the transfer of its powers to a planning commission by not later than July 1, 2011.

Many zoning ordinances also specifically require the first regular member of the ZBA to also be a member of the zoning board. Where a township wishes to keep that language, the ordinance must be amended to change "zoning board" to either "planning commission" or "zoning commission."

## **A. Switching from a zoning board to a zoning commission**

Although MTA recommends that every township with a zoning board switch directly to a planning commission with zoning authority, a township board may deem it appropriate to go from zoning board to zoning commission and then later to a planning commission.

MTA Legal Counsel recommend that every township in this situation at least start reviewing the process of establishing a planning commission under the Township Planning Act and transferring zoning powers to the planning commission. Townships that do not initiate this process sooner, rather than later, may simply lose track of the statutory deadline and find themselves at July 1, 2011, with a zoning board/zoning commission that has no authority under the ZEA or the township zoning ordinance.

Where a township chooses to retain its existing zoning board for some period of time after July 1, 2006, it is at least advisable to appropriately amend the zoning ordinance text to reflect the new "zoning commission" terminology and requirements to eliminate confusion and potential liabilities.

**These text amendments will need to consider the new membership requirements of a zoning commission under the ZEA, which differ from the membership requirements for a zoning board under the TZA, and other provisions of the ZEA governing a newly created zoning commission.**

The ZEA provisions governing a zoning commission differ in several respects from the TZA provisions governing a zoning board. The more detail a zoning ordinance has with respect to such matters as the regular meeting schedule, notices of regular meetings, annual reports to the township board, etc., the more likely the zoning ordinance will require appropriate amendments to conform with the relevant provisions of the ZEA on these and other substantive matters relating to the zoning commission.

Section 306 and other provisions of the ZEA address various procedural requirements relating to adopting a zoning ordinance, text amendment, or rezoning. However, these provisions generally omit any reference to the zoning "plan" upon which Section 203 requires the zoning ordinance to be based, and as to which Section 305 requires the zoning commission to make recommendations to the township board. The failure to include references to the "plan" in the various provisions of the ZEA relating to the procedures for zoning ordinance amendments, etc., seems to leave something of a vacuum with respect to the process for considering the "plan" where the township has a zoning commission.

This is not a problem for any township with a planning commission, because land use "plan" matters in such a township are governed by the Township Planning Act in considerable detail. A township converting from a zoning board/zoning commission to a planning commission under the Township Planning Act will also not have any difficulty with this issue, for the same reason.

However, a township with a zoning commission, whether previously existing as a zoning board before July 1, 2006, or created by resolution on or after that date, may experience some confusion in determining the procedures referenced in the ZEA for adopting or amending a land use plan.

Frankly, this same problem presently exists under the TZA. MTA has consistently addressed this problem by advising any township with a zoning board to use the same procedures for adopting or amending a zoning ordinance for adopting or amending a land use plan. MTA Legal Counsel believe it is appropriate to extend that same advice to any township with a zoning board/zoning commission involved with land use plan/amendment matters when the ZEA takes effect July 1, 2006.

## **B. Switching from a zoning board to a planning commission**

The township board may create by resolution a township planning commission with the power to make, adopt, extend, add to or otherwise amend and carry out plans for the unincorporated portions of the township, as provided by the Township Planning Act (TPA) (MCL 125.323(1)).

**Note:** At the time this was written in May 2006, the Township Planning Act was undergoing a similar legislative combination with the county, city and village planning acts. Consult the statutes to ensure information included in this document is accurate when used.

The resolution creating a planning commission takes effect 60 days after publication in a newspaper of general circulation in a township (MCL 125.323(2)).

Within 60 days following publication of the resolution by the township board, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of the township equal to no less than 8 percent of the total vote cast for all candidates for governor at the last general election for governor may be filed with the township clerk requesting that the resolution to establish a planning commission be submitted to the electors for their approval or rejection. If a petition is filed, the resolution to establish a planning commission does not take effect until it is approved by a majority of the electors voting on it at the next regular or special election that allows reasonable time for proper notices and printing ballots or at any special election called for that purpose. The township board provides the manner of submitting the resolution to the electors and determining the results (MCL 125.323(2)).

Following approval of the resolution to establish a planning commission, the township clerk must, within 10 days, transmit copies of the resolution to the Secretary of State and the county planning commission or regional planning commission exercising planning jurisdiction in the township, if one exists (MCL 125.323(4)).

## **Planning commission membership**

The planning commission must consist of no less than five or more than nine members. The members must represent major interests of the township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry.

The TPA states that all members must be qualified township electors and property owners. However, Attorney General Opinion 5197, dated May 23, 1977, states that property ownership cannot be used as a criteria for sitting on a township planning commission. It is MTA Legal Counsel's opinion that townships should follow that opinion and not require property ownership for planning commission membership. However, if currently serving planning commission members are only property owners, the commission's composition would not be illegal if the township board could substantiate the fact that they did not preclude consideration of non-property owners.

The township supervisor with township board approval appoints the planning commission members. Members may be removed by the township supervisor, after a hearing, with township board approval (MCL 125.324(2)).

One member of the planning commission *must* be a member of the township board (MCL 125.324(1)). However, that member is the only township board member who can serve on the commission (AG 6837 of 1995). Because the supervisor appoints and removes planning commission members, the supervisor cannot appoint him or herself to serve on the planning commission (AG 6834 of 1995; AG 6737 of 1992).

The zoning administrator enforces the zoning ordinances; reviews applications for rezonings, special uses and site plans; makes recommendations to the planning commission, and assists them with zoning questions. Although there is no specific statute prohibiting the zoning enforcement officer from serving on a planning commission, MTA Legal Counsel believe there are strong arguments against it. The TPA defines the term "citizen member" as a member of a township planning commission holding no other office, except that he or she may be a zoning board of appeals member (MCL 125.321). In addition, due to enforcement actions taken by a township zoning enforcement officer, individuals are often required to come before the planning commission to apply for rezonings, special land use permits, site plan approval or other actions. If the zoning enforcement officer also sat on the planning commission, he or she would be serving in both an enforcement role and an administrative or legislative role, which could give rise to actual or the appearance of conflicts of interest.

Planning commission members serve three-year terms. On a newly established planning commission, one-third of the members serve for one year, one-third serve for two years and one-third serve for three years (MCL 125.324(3)).

A successor must be appointed no more than one month after the preceding commission member's term has expired. All vacancies for unexpired terms must be filled for the remainder of the term (MCL 125.324(3)).

Members of the planning commission may be compensated for their services as provided by the township board (MCL 125.324(4)). A township planning commission member may not refuse to accept the compensation established by a township board for serving on its planning commission (AG 6961 of 1997).

The planning commission may develop a policy to establish travel and expense reimbursement procedures for its members and employees when engaged in performing authorized activities, including attending conferences and meetings (MCL 125.324(4)).

The planning commission must prepare and submit a detailed budget to the township board for approval. Planning commission expenditures must be within the amounts appropriated by the township board (MCL 125.324(4)).

The planning commission must elect a chairperson, vice chairperson and secretary from its members and create and fill other offices or committees, as it considers advisable. Each officer's term is one year (MCL 125.325(1)).

### **Planning commission meetings**

The planning commission must hold at least four regular meetings each calendar year, determining the time and place of the meetings by resolution. Planning commission business must be conducted at a public meeting that is noticed and conducted in compliance with the Open Meetings Act (MCL 125.325(2)).

A special meeting of the planning commission can be called by the chairperson or by two members upon written request to the secretary, who must give 48-hours written notice to the planning commission members (MCL 125.325(2)).

The planning commission must adopt rules for transacting business and keep a public record of its resolutions, transactions, findings and determinations. It must make an annual written report to the township board concerning its operations and the status of planning activities, including recommendations regarding actions by the township board related to planning and development (MCL 125.325(4)).

All documents and records prepared, owned, used, in the possession of or retained by the planning commission in the performance of an official function must be made available to the public in compliance with the Freedom of Information Act (MCL 125.325(4)).

### **MTA recommends giving planning commission and zoning board of appeals members the oath of office**

Even though planning commission members and zoning board of appeals members are not required by law to take the oath of office, MTA recommends that they do so. Taking the oath tends to lend credibility to the position to which a person has just been appointed or assigned. It also provides an opportunity to create a "paper trail" for the township board to the date of appointment and, therefore, to the expiration date of that person's appointment so the board knows when to make future appointments.

## **Sample Resolution to Establish a Planning Commission with Zoning Authority**

WHEREAS, the township board of \_\_\_\_\_ Township, \_\_\_\_\_ County, Michigan wishes to proceed under the terms and provisions of the Township Planning Act, Public Act 168 of 1959, as amended (MCL [125.321](#), et seq.) and create a planning commission for the township,

**NOW, THEREFORE, BE IT RESOLVED:**

- 1. Establishment:** The township board hereby creates a township planning commission consisting of \_\_\_\_ (5, 6, 7, 8, or 9) members. The planning commission is formed under the authority of and subject to the powers, duties, and limitations provided in the Township Planning Act, Public Act 168 of 1959, as amended (MCL [125.321](#), et seq.), and further subject to the terms and conditions of this resolution and any amendments to it.
- 2. Appointments and Terms:** The first members of the planning commission shall be appointed no sooner than 60 days following the publication of this resolution. The township supervisor, with the approval of the township board, shall appoint all planning commission members. When the planning commission is first established, the first members will be appointed to staggered terms, so one-third shall serve for one year, one-third for two years, and one-third for three years. After that, all planning commission members shall serve for terms of three years each, with one-third of the terms expiring each year. Successors shall be appointed not more than one month after the term of the preceding commission member has expired. Vacancies shall be filled for the remainder of the term.
- 3. Members:** Planning commission members shall be registered voters of the township who are representative of major interests as they exist in the township, such as agriculture, recreation, education, public health, government, commerce, transportation, and industry. One member of the township board shall be appointed to the planning commission.
- 4. Compensation:** The planning commission members may be compensated for their services as provided by township board resolution.
- 5. Officers and Meetings:** The planning commission shall elect a chair, vice-chair, and secretary from its members, and may create and fill other offices or committees as it deems advisable. It may appoint advisory committees outside of its membership. The terms of all officers shall be one year. The planning commission shall meet at least four times each year, and any additional times as it determines necessary to accomplish its functions.
- 6. Authority to Make Master Plan:** Under the authority of the Township Planning Act, Public Act 168 of 1959, as amended (MCL [125.321](#), et seq.), the planning commission shall make a master plan as a guide for the development of those portions of the township outside of any incorporated village. The (*township board/planning commission—pick one and select corresponding language in Paragraph 7*) shall have final approval of the master plan and any subsequent amendments.

**7. Recommending Authority:** The planning commission shall make recommendations concerning new plats and other land development matters referred to it by the township board. All final decisions of said planning commission, except those to (*adopt the master plan—include if planning commission is given final approval of the master plan in Paragraph 6 above*) to elect its own officers and adopt its own rules of procedure, shall be subject to the approval of the township board before they can take effect.

**8. Amendments to Authorizing Statute:** Any amendments made to the Township Planning Act, Public Act 168 of 1959, as currently amended (MCL [125.321](#), et seq.), shall hereby be declared to automatically control the activities and function of the planning commission.

**9. Zoning Powers:** All powers, duties, and responsibilities provided by the (*If this resolution is adopted before July 1, 2006, use this: Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.*). *If this resolution is adopted on or after July 1, 2006, use this: Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.*) for zoning boards are hereby transferred to the planning commission as of the effective date of this resolution, unless the zoning board is nearing the completion of its zoning plans, in which case the transfer of functions shall be postponed until the zoning plans are completed or for a period of one year, whichever occurs first. Any existing zoning ordinance shall remain in full force and effect until otherwise amended, altered or repealed by the township board

**10. Effective Date:** This resolution shall take effect 60 days following its publication in a newspaper of general circulation in the township, unless a legal referendum petition is filed as provided by the Township Planning Act, Public Act 168 of 1959, as amended (MCL [125.321](#), et seq.), and then when the establishment of a planning commission has been approved by a majority of the electors voting at a subsequent regular or special election. The township board reserves the right to amend or repeal this resolution at any time hereafter by a majority vote of the membership of the township board.

**11. Submissions and Publication:** The township clerk shall, within 10 days after this resolution is adopted, transmit copies of the resolution to the secretary of state for the State of Michigan, and to the county planning commission or regional planning commission exercising planning jurisdiction within the township. The clerk shall also, within 30 days after this resolution is adopted, publish it in a newspaper of general circulation in the township. The clerk shall prepare and sign a certificate of these submissions and publication.

#### **CERTIFICATE**

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this resolution was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on \_\_\_\_\_, and that copies of the resolution were transmitted and published as directed.

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Township Clerk

## Oath of Office

STATE OF MICHIGAN,

County of \_\_\_\_\_

I do solemnly swear (*or affirm*) that I will support the Constitution of the United States, and the Constitution of this State, and that I will faithfully perform the duties of the office of \_\_\_\_\_ in and for the Township of \_\_\_\_\_, County of \_\_\_\_\_ and the State of Michigan, according to the best of my ability, so help me God.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, (County), Michigan

## Sample “Paper Trail”

### History of Planning Commission (6 members, 3-year staggered terms)

Term Start	Stagger			Appt./Reappt.	Oath Taken	Member	Vacancy	Term End	Replaced By
1/8/2000	1			12/7/1999	12/7/1999	Margaret Fair		1/8/2003	Margaret Fair
1/8/2000	1			12/7/1999	12/7/1999	Amy Wise		1/8/2003	Amy Wise
1/8/2001		2		12/3/2000	12/3/2000	Mike Smart		1/8/2004	Mike Smart
1/8/2001		2		12/3/2000	12/3/2000	Monica Quick		1/8/2004	Ida Jones
1/8/2002			3	12/4/2001	12/4/2001	Robert Roberts		1/8/2005	
1/8/2002			3	12/4/2001	12/4/2001	John Good		1/8/2005	
1/8/2003	1			12/19/2002	1/8/2003	Margaret Fair		1/8/2006	
1/8/2003	1			12/19/2002	12/19/2002	Amy Wise	9/7/2004	1/8/2006	Sue Swift
1/8/2003	1			10/5/2004	10/5/2004	Sue Swift		1/8/2006	
1/8/2004		2		12/2/2003	12/2/2003	Mike Smart		1/8/2007	
1/8/2004		2		12/2/2003	12/2/2003	Ida Jones		1/8/2007	

This chart could be adapted for any board or commission appointed by the township board, with or without staggered terms. Note that specific staggered terms are required for a planning commission (or zoning commission), zoning board of appeals, fire or police administrative board, and fire or police civil service commission. (*Not an exhaustive list*)

# **General Law Township Zoning Ordinance Checklists**

## **Updated for use with MZEA**

The steps specified in these updated checklists are intended to reflect requirements of law.<sup>1</sup> However, in some instances the requirements of law are only applicable in certain circumstances. An example of such a step would be the mailing of zoning commission/planning commission public hearing notices to public utilities, railroads, etc; such mailings are only required where the designated entity has registered its name and address with the township clerk for the purpose of receiving zoning public hearing notices.

These updated checklists also reflect steps MTA Legal Counsel believe are required based on a reasonable interpretation of the applicable ZEA provision, but as to which other competent legal counsel could possibly interpret differently.

The checklists include steps that are not explicitly imposed by a statutory requirement, but are fairly implied by a statutory requirement and followed as a matter of good procedure. For example, although the ZEA does explicitly require the Township to mail public hearing notices to certain persons and entities in certain circumstances, the ZEA does not explicitly require the Township to document the occurrence of the required mailings. The checklists nevertheless include a step referencing the filing of appropriate affidavits of such required mailings in the township records, as the documentation of such mailings may be critical in the event of a legal challenge to the procedural validity of a rezoning or text amendment ordinance.

In all of these types of situations, the preparation of the updated checklists has been guided by the importance of following a cautious approach, where following a different but less defensible interpretation of the statute could facilitate a defect in the ordinance process. This approach is particularly appropriate considering the absence of any governing case law at this time on any aspect of the new ZEA.

### **Issues Related to Zoning Ordinance Filing Requirements**

Four particular statutory interpretation issues flow from Section 401(10) of the ZEA, which states as follows:

"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."

This statutory language, while quite plainly worded, still requires some careful examination of whether other statutory requirements are "relating to the filing and publication of ...township ordinances," and are thus superseded.

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<sup>1</sup> Section 202(1) of the ZEA authorizes each township to provide by ordinance for the "manner" in which the zoning ordinance shall be amended, supplemented or changed. In our April 20, 2006 memorandum on the ZEA we expressed the opinion that this language cannot be interpreted to authorize a township to give less notice than the ZEA requires; but does authorize a township to impose upon itself additional or greater publication, etc. requirements governing the manner in which proposed rezonings and zoning ordinance text amendments will be noticed to the public and considered by the township. The updated checklists are of course based on only the statutory requirements, and are not intended to reflect such additional or greater requirements as a township may choose to impose on itself.

With respect to both general and charter townships, MTA Legal Counsel have concluded the requirement imposed by MCL 41.185 regarding the filing of an attested copy of an ordinance with the county clerk (if the township does not maintain a township office open to the public during regular hours on each business day) is not superseded by Section 401(10) of the ZEA. That conclusion reflects a cautious approach that is more consistent with open government and access to public records.

There is no question the relevant aspect of MCL 41.185 does relate to the "filing...of...township...ordinances," which is the language used in ZEA Section 401(10). However, MTA Legal Counsel have nevertheless concluded this statutory requirement is not superseded by the filing requirements under Section 401 of the ZEA, because that Section of the ZEA does not address in any manner the filing of a township ordinance with a county clerk. This is thus a different situation from the third item discussed above, where both Section 401 of the ZEA and Section 8 of the CTA address publication of an adopted ordinance. Where, as here, Section 401 of the ZEA does not impose any requirement relating to the filing of an adopted ordinance with a county clerk, MTA Legal Counsel are reluctant to conclude that provision supersedes the filing requirement imposed by MCL 41.185.

Prevailing Michigan Supreme Court precedent indicates that an unambiguous statute must be applied pursuant to its plain language, and need not be further interpreted. However, MTA Legal Counsel believe there is some uncertainty as to whether the Legislature intended Section 401(10) of the ZEA to supersede even types of ordinance "filing" requirements not addressed at all in said Section 401. The resulting conclusion---that the pertinent townships must continue to file an attested copy of adopted ordinances with the county clerk---facilitates openness in local government and easier access to the ordinances of a township which does not maintain a township office open to the public during regular hours on each business day.

### **Township Board Referral to Planning Commission**

One other legal issue merits special comment. Section 401(3) of the ZEA allows but no longer requires the township board to refer the matter back to the planning commission if the township board considers changes to the recommendation to be necessary. In such a circumstance Section 401(5) of the ZEA allows the township board to consider and vote upon the adoption of a zoning ordinance (text amendment or rezoning) "with or without amendments". This language may give the township board considerably more latitude to avoid obligatory "refer back" situations, but it is also the subject of potential legal issues.

For example, if a five-acre parcel was noticed for public hearing and recommended for rezoning, in the opinion of MTA Legal Counsel the township board cannot also approve rezoning an additional adjacent three-acre parcel, as an "amendment" of the recommended rezoning of the five-acre parcel, without a further properly noticed public hearing by the planning commission on the proposed rezoning of the adjacent three-acre parcel). This is addressed in the updated checklists by referring to approving the proposed text amendment/rezoning, with or without "permissible" amendments/changes.

## **CHECKLIST OF STEPS FOR ZONING ORDINANCE TEXT AMENDMENT (General Law Township--MZEA)**

### **I. STEPS TO BE TAKEN BY PLANNING COMMISSION (Same steps apply where Township has a Zoning Commission, prior to July 1, 2011.)**

- 1. TEXT AMENDMENT INITIATED by Planning Commission, Township Board, or citizen.
- 2. SCHEDULE PUBLIC HEARING on proposed amendment during any regular meeting or special meeting, if not scheduled for a regular meeting date.
- 3. PREPARE NOTICE of public hearing/meeting of Planning Commission on proposed amendment, for publication, mailing and posting. Notice is required to:
  - A. Describe nature of proposed amendment.
  - B. State time and place proposed amendment will be considered.
  - C. Indicate time and place written comments will be received.
  - D. State times and places tentative proposed text may be examined.
  - E. Include name of public body, with address and telephone number.
- 4. PUBLISH NOTICE of public hearing/meeting in newspaper of general circulation in Township at least 15 days before date of public hearing/meeting.
- 5. MAIL NOTICE of public hearing/meeting by regular first class mail to each electric/gas/pipeline public utility company, telecommunication service provider, and railroad operating within Township, and manager of each airport within Township, at least 15 days before date of public hearing/meeting. Note: this step only applies to extent designated entity has registered name and address with Clerk for purpose of receiving zoning public hearing notices.
- 6. POST NOTICE of public hearing/meeting at Township Hall at least 18 hours before scheduled time of public hearing/meeting, if not on regular meeting schedule.
- 7. FILE AFFIDAVITS of publication, mailing and posting of Notice in Township records.
- 8. At a regular or special meeting, PLANNING COMMISSION FORMALLY OPENS PUBLIC HEARING on proposed amendment:

- A. Introductory comments on proposed amendment by Planning Commission or other initiating party.
  - B. Acknowledge written comments received on proposed amendment.
  - C. Receive comments on proposed amendment by persons attending hearing.
- 9. Formally CLOSE PUBLIC HEARING and DISCUSS proposed amendment.
- 10. APPROVE MOTION recommending approval or disapproval of proposed amendment.
- 11. SUBMIT RECOMMENDATION TO COUNTY PLANNING COMMISSION for advisory review and recommendation. Note: This step is required unless County Board of Commissioners has passed a resolution waiving county right of review. Where submittal to County Planning Commission is required, right of review is also waived if County Planning Commission recommendation is not received by Township Board within 30 days from date of County Planning Commission receipt of Planning Commission recommendation.
- 12. SUBMIT TO TOWNSHIP BOARD summary of comments received at Planning Commission public hearing/meeting and recommendation of Planning Commission on proposed amendment (and, where applicable, recommendation of County Planning Commission). Note: Matter is referred to Township Board regardless of whether Planning Commission and County Planning Commission recommend approval or disapproval of proposed amendment.

## II. STEPS TO BE TAKEN BY TOWNSHIP BOARD.

- 1. Township Board may on its own initiative hold an additional public hearing regarding proposed amendment, and is required to hold public hearing upon request of any property owner by certified mail to Clerk. Notice of any such public hearing must be given in same manner as required for public hearing by Planning Commission. (See Part I, Steps 4-6).
- 2. TOWNSHIP BOARD CONSIDERS PLANNING COMMISSION RECOMMENDATION at any regular meeting or at special meeting, and:
  - A. Disapproves proposed amendment, with no further action by Planning Commission.
  - B. Approves proposed text, in ordinance form, with or without permissible amendments.
  - C. Refers proposed text back to Planning Commission for further consideration and comment within time specified by Township Board.

PROCEED TO STEPS 3-10 ONLY IF TOWNSHIP BOARD DESIRES TO APPROVE TEXT AMENDMENT.

- \_\_\_ 3. ADOPT ORDINANCE (amending Zoning Ordinance) by motion approved by majority of Township Board members, on roll call vote.
- \_\_\_ 4. FILE ORDINANCE with Township Clerk within 15 days after adoption.
- \_\_\_ 5. PUBLISH notice of ordinance adoption in required form in newspaper of general circulation in Township, with either complete text amendment ordinance, or legally proper summary of ordinance, within 15 days after adoption of ordinance.
- \_\_\_ 6. FILE AFFIDAVIT OF PUBLICATION from newspaper in Township ordinance records.
- \_\_\_ 7. FILE ATTESTED COPY OF COMPLETE ORDINANCE WITH COUNTY CLERK (not required if township office is open to the public during regular hours on each business day).
- \_\_\_ 8. (Where applicable) MAIL COPY OF NOTICE OF ORDINANCE ADOPTION to manager of airport registered with Township Clerk to receive zoning notices.
- \_\_\_ 9. RECORD ORDINANCE in Township ordinance book within one week after publication of ordinance, with Certificate of Township Clerk recording date of adoption of ordinance, names of Board members voting thereon, how each member voted, date of publication and name of newspaper (and, where applicable, date of filing of ordinance with County Clerk, and date of mailing notice of ordinance adoption to airport manager).
- \_\_\_ 10. DISTRIBUTE copies of revised Zoning Ordinance pages to members of Township Board, Planning Commission, Zoning Board of Appeals, and other appropriate Township officials.

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Effective July 1, 2006

## **CHECKLIST OF STEPS FOR REZONING OF PROPERTY (General Law Township--MZEA)**

### **I. STEPS TO BE TAKEN BY PLANNING COMMISSION (Same steps apply where Township has a Zoning Commission, prior to July 1, 2011.)**

- 1. RECEIVE APPLICATION with fee established by Township Board and information required to process application, including:
  - A. Name and address of applicant and owner of land proposed to be rezoned.
  - B. Street number or other common description of land proposed to be rezoned.
  - C. Legal description of land proposed to be rezoned.
  - D. Present zoning classification and requested zoning classification of land proposed to be rezoned.
- 2. SCHEDULE PUBLIC HEARING on rezoning request during any regular meeting or a special meeting, if not scheduled for a regular meeting.

NOTE: If proposed rezoning is inconsistent with Township land use plan, consideration of amendment of land use plan may be necessary before or at the same time as approval of requested rezoning, and any such proposed amendment of land use plan must be processed in accordance with applicable legal requirements. Consult township attorney.

- 3. PREPARE NOTICE of public hearing/meeting of Planning Commission on requested rezoning, for publication, mailing and posting. Notice is required to:
  - A. Indicate property proposed for rezoning, including listing of all existing street addresses within the property if 1-10 parcels are proposed to be rezoned.
  - B. Indicate present zoning classification and requested zoning classification of land proposed to be rezoned.
  - C. State time and place rezoning request will be considered.

- D. Indicate time and place written comments will be received concerning rezoning request.
    - E. State times and places zoning ordinance/zoning map/land use plan may be examined.
    - F. Include name of public body, with address and telephone number.
  - \_\_\_\_ 4. PUBLISH NOTICE of public hearing/meeting in newspaper of general circulation in Township at least 15 days before public hearing/meeting.
  - \_\_\_\_ 5. MAIL NOTICE of public hearing/meeting by regular first class mail to each electric/gas/pipeline public utility company, telecommunication service provider, and railroad operating within affected zoning district, and manager of each airport within Township, at least 15 days before date of public hearing/meeting. Note: This step only applies to extent designated entity has registered name and address with Clerk for purpose of receiving zoning public hearing notices.
  - \_\_\_\_ 6. MAIL NOTICE of public hearing/meeting by regular first class mail (or personally deliver) at least 15 days before date of public hearing/meeting to:
    - A. Applicant(s).
    - B. Owner(s) of property proposed to be rezoned.
    - C. All persons to whom real property is assessed within 300 feet of boundaries of property proposed to be rezoned.
    - D. Occupants of all structures within 300 feet of property proposed to be rezoned; if name of an occupant is not known, address to "occupant."
- Note: This step only applies if an individual property or ten or fewer adjacent properties are proposed to be rezoned. Where this step is required, the 300-foot requirement applies to properties/occupants located within or outside Township boundaries.
- \_\_\_\_ 7. POST NOTICE of public hearing/meeting at Township Hall at least 18 hours before scheduled time of public hearing/meeting, if not on regular meeting date.
  - \_\_\_\_ 8. FILE AFFIDAVITS of publication, mailing and posting of notice of public hearing/meeting in Township records.

- \_\_\_ 9 At a regular or special meeting, PLANNING COMMISSION FORMALLY OPENS PUBLIC HEARING on requested rezoning:
  - A. Receive comments of applicant(s)/owner(s) on proposed rezoning.
  - B. Acknowledge written comments received on proposed rezoning.
  - C. Receive comments on proposed rezoning by persons attending hearing.
- \_\_\_ 10. Formally CLOSE PUBLIC HEARING and DISCUSS proposed rezoning:
  - A. Determine whether proposed rezoning is consistent with Township land use plan.
  - B. Review permitted uses and special exception uses which property could be used for if rezoning is approved.
  - C. Evaluate whether property is appropriate to be used for uses allowed in requested zoning district.
- \_\_\_ 11. APPROVE MOTION recommending approval or disapproval of proposed rezoning.
- \_\_\_ 12. SUBMIT RECOMMENDATION TO COUNTY PLANNING COMMISSION for advisory review and recommendation. Note: This step is required unless County Board of Commissioners has passed a resolution waiving county right of review. Where submittal to County Planning Commission is required, right of review is also waived if County Planning Commission recommendation is not received by Township Board within 30 days from date of County Planning Commission receipt of Planning Commission recommendation.
- \_\_\_ 13. SUBMIT TO TOWNSHIP BOARD summary of comments received at Planning Commission public hearing/meeting and recommendations of Planning Commission on proposed rezoning (and, where applicable, recommendation of County Planning Commission). Note: Matter is referred to Township Board regardless of whether Planning Commission and County Planning Commission recommend approval or disapproval of proposed rezoning.

## II. STEPS TO BE TAKEN BY TOWNSHIP BOARD.

- \_\_\_ 1. Township Board may on its own initiative hold an additional public hearing regarding proposed rezoning, and is required to hold public hearing upon request of any property owner by certified mail to Clerk. Notice of any such public hearing must be given in same manner as required for public hearing by Planning Commission (See Part I, Steps 4-7).
- \_\_\_ 2. TOWNSHIP BOARD CONSIDERS PLANNING COMMISSION RECOMMENDATION at any regular meeting or at special meeting, and:
  - A. Disapproves proposed rezoning, with no further action by Planning Commission.
  - B. Approves proposed rezoning, in ordinance form, with or without permissible changes.
  - C. Refers proposed rezoning back to Planning Commission for further consideration and comment within time specified by Township Board.

PROCEED TO STEPS 3-10 ONLY IF TOWNSHIP BOARD DESIRES TO APPROVE REZONING.

- \_\_\_ 3. ADOPT ORDINANCE (amending zoning map/zoning ordinance) by motion approved by majority of township board members, on roll call vote.
- \_\_\_ 4. FILE ORDINANCE with Township Clerk within 15 days after adoption.
- \_\_\_ 5. PUBLISH NOTICE of ordinance adoption in required form in newspaper of general circulation in Township, with either complete rezoning ordinance, or legally proper summary of ordinance, within 15 days after adoption of ordinance.
- \_\_\_ 6. FILE AFFIDAVIT OF PUBLICATION from newspaper in township ordinance records.
- \_\_\_ 7. FILE ATTESTED COPY OF ORDINANCE with County Clerk (not required if township office open regular hours on each business day).
- \_\_\_ 8. (Where applicable) MAIL COPY OF NOTICE OF ORDINANCE ADOPTION to manager of airport registered with Township Clerk to receive zoning notices.
- \_\_\_ 9. RECORD ORDINANCE in Township ordinance book within one week after publication of ordinance, with Certificate of Township Clerk recording date of adoption of ordinance, names of members voting thereon, how each member

- voted, date of publication and name of newspaper in which ordinance was published (and, where applicable, date of filing of ordinance with County Clerk, and date of mailing notice of ordinance adoption to airport manager).
- 10. CHANGE ZONING MAP and distribute copies of revised Zoning Ordinance pages (if any) to members of Township Commission, Planning Commission, Zoning Board of Appeals, and other appropriate Township officials.

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Effective July 1, 2006

(Township Letterhead)

TOWNSHIP, \_\_\_\_\_ COUNTY

**FINAL DECISION OF THE \_\_\_\_\_ TOWNSHIP  
ZONING BOARD OF APPEALS**

**For an appeal by right of this decision to be timely, it must be made  
to the circuit court for the county in which the property is located  
within 30 days of the date of this order. (MCL 125.3606)**

**Appeal Number:** \_\_\_\_\_

**Hearing Date:** \_\_\_\_\_

**Applicant:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone / Fax:** \_\_\_\_\_

**Type of Request to ZBA (variance, interpretation of zoning map, administrative appeal,  
other—please specify):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ZBA Findings of Fact:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ZBA Decision:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Reasons for Decision:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Votes of ZBA Members:**

(Yes) (No) \_\_\_\_\_  
(Yes) (No) \_\_\_\_\_  
(Yes) (No) \_\_\_\_\_  
(Yes) (No) \_\_\_\_\_  
(Yes) (No) \_\_\_\_\_

**Signature(s) of Designated ZBA Member(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, Secretary of the \_\_\_\_\_ Township  
Zoning Board of Appeals, certify that on this date I witnessed the signatures set forth  
above and attest to the accuracy of this final decision report.

27.00

**ARTICLE XXVII**  
**ENVIRONMENTALLY SENSITIVE AREAS**

**27.10 REGULATIONS OF ENVIRONMENTALLY SENSITIVE AREAS.**

All land uses shall comply with the standards set forth in this section regulating the land use of environmentally sensitive areas. These requirements shall be supplemental to land use restrictions and other applicable zoning regulations.

**27.11 INTENT.**

It is the intent of these regulations to identify and guard those areas of the Township that are considered to be environmentally sensitive to development due to soil types, drainage, vegetation, wildlife habitats, historical features or other factors that are subject to being seriously endangered, damaged or destroyed if allowed to develop in a manner inconsistent with their conservation and preservation. Since the welfare and well-being of the citizens of the Township are directly linked and related to the natural environment of the area, it is recognized by this Township that in order to maintain sensitive areas in their natural and /or historical conditions for the benefit of mankind, it is necessary to protect such areas.

**27.12 DEFINITION OF ENVIRONMENTALLY SENSITIVE AREAS.**

Areas which meet any one (1) of the following definitions shall be considered an Environmentally Sensitive Area:

**A. WETLANDS AND LANDS ADJACENT TO WETLANDS.**

1. The following areas shall be considered wetlands:

- a. Any area identified as a wetland by Michigan Department of Natural Resources. See Page 109.
  - (1) Those area wholly or largely covered by marsh or swamp flora.

2. The following lands shall be considered adjacent to wetlands:

- a. All lands lying within five hundred (500) feet of an identified wetland.

**B. DUNELAND.**

The following areas shall be considered duneland:

1. When the following soils predominate, singly, or in any combination (using the standard U.S. Soil Conservation Service classification), the area shall be considered a duneland:

- a. Wind eroded land, sloping
- b. Wind eroded land, strongly sloping

2. Those areas wholly or largely covered by flora characteristic of beaches, or stabilized or unstabilized dunes.

**C. SOILS SUBJECT TO LEACHING.**

1. When the following soils predominate, singly or in any combination (using the standard U. S. Soil Conservation Service Classification), they shall be considered subject to leaching:

- a. Alpena-East Lake gravelly loamy sands
- b. AuGres-Saugatuck Sands
- c. Croswell loamy sands
- d. Croswell-Rubicon sands
- e. East Lake-Mancelona loamy sands, 0-6 per-cent slopes
- f. Eastport Roscommon sands
- g. Gravelly land
- h. Gravel pits
- i. Grayling sand
- j. Kalkaska loamy sand
- k. Kalkaska sand
- l. Lake beach and Eastport sand
- m. Leelanau-Kalkaska loamy sands
- n. Mancelona loamy sands
- o. Mancelona-East Lake loamy sands
- p. Rubicon sands

2. When the following soils predominate, singly or in any combination (using the standard U. S. Soil Conservation Service Classification), they shall be considered subject to leaching if effluent reaches the subsoil:

- a. East Lake- Mancelona loamy sands, 6-35 per-cent slopes
- b. Karlin loamy sands
- c. Karlin sandy loams
- d. Mancelona gravelly sand loam
- e. Montcalm-Kalkaska loamy sands

**D. STEEP SLOPES.**

The provision of this Ordinance pertaining to steep slopes shall be applicable on slopes exceeding fifteen (15) per-cent. When the slope on a site is in question, the Township may require five (5) to ten (10) foot contour maps at and near any proposed structures (buildings or roadways).

**E. SHORELINE AREAS.**

Shoreline areas shall be defined as those areas lying within fifty (50) feet of a stream, river, pond, lake or wetland area, or the designated flood plain of these water bodies, whichever is greater. For the purposes of this Ordinance, the measurement shall be taken as follows:

- 1. For any stream or part thereof, which is generally less than 15 feet in width: from the center of the channel.
- 2. For any stream or part thereof, which is generally greater than 15 feet in width, and for any pond, lake or wetland: the line of the mean high water level, as indicated by eroded stream banks, changes in vegetation, or other reliable indicators.

## **F. GROUND WATER RECHARGE ZONES.**

The following land shall be considered Ground Water Recharge Zones:

1. Those lands which, based on well drilling logs, the Grand Traverse County Health Department identifies as ground water recharge zones or probable ground water recharge zones.

## **G. OTHER AREAS.**

Other areas may be designated by the Township Board, after review and recommendation of the Township Planning Commission, as areas of Environmental Sensitivity, including, but not limited to:

1. Rare or valuable ecosystems;
2. Significant undeveloped agricultural, grazing or watershed areas;
3. Forests and related land which require long stability for continuing renewal;
4. Scenic or historical areas (including burial grounds);
5. Archaeologically significant areas; and
6. Such additional areas as may be determined by the State of Michigan or the Township.

### **27.13 ENVIRONMENTALLY SENSITIVE LAND USE PERMIT APPLICATION;**

An Environmentally Sensitive Land Use Permit application shall be required for construction or development, including but not limited to tree harvesting, of Environmentally Sensitive Areas regardless of size, and in addition to (or as part of) any other applicable permit required by this Ordinance. The application for the land use permit shall:

**A. Demonstrate that the proposed development will not adversely affect the environmental quality of the property and the surrounding area by means of the following:**

1. The applicant shall provide written evidence that the proposed development of the property will conform to the provisions of such Soil Erosion and Sedimentation Control as may be in effect in accordance with the Soil Erosion and Sedimentation Act of 1972 (P.A. 1972, #347, effective March 30, 1973) as enforced by Grand Traverse County.
2. The applicant shall provide written evidence that a sewage treatment or disposal system has been approved by the County Health officer and Waste Water Division of the Department of Natural Resources when applicable and that a sewage treatment or disposal system is in conformance with this Ordinance, including but not limited to setbacks from water bodies, height above water level and other applicable requirements.
3. The applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be performed according to the following standards:
  - a. Cutting shall be done in a manner as to avoid erosion, to preserve rare species of trees and other vegetation, to preserve scenic qualities and to preserve desirable screening from neighboring habitation.

- b. Clear cutting (or tree removal) shall be permitted when necessary to accommodate building sites as follows:
- (1) Grading or clearing of a site shall not commence prior to issuance of an Environmentally Sensitive Land Use Permit as required by this Ordinance and a building permit, if required.
  - (2) For single family dwellings and amenities for the private (non-commercial) use of the occupants of the single family dwelling, said clear cutting shall not exceed a ratio of 10,000 square feet per acre.

B. Provide such data concerning the physical development and extent of disruption to the site as may be required by the Planning Commission for a site plan review.

C. The review of the site plan shall be made in the manner prescribed in Sec. 25.00 of this Ordinance (Site Plan Review).

#### **27.14 SPECIAL REQUIREMENTS FOR ENVIRONMENTALLY SENSITIVE AREAS.**

A particular site may be classified under one or several definitions as being Environmentally Sensitive. In those cases, the most restrictive provision of these regulations shall apply.

##### **A. WETLANDS AND LANDS ADJACENT TO WETLANDS.**

1. No in-ground or above ground tanks, bins or vessels for the storage of fuels or chemicals shall be permitted in wetland areas.
2. Above ground tanks or vessels or bins for the storage of fuels or chemicals shall be permitted on lands adjacent to wetland areas provided that they are installed in such a way that leakage or spillage of any or all contents shall be safely contained and prevented from reaching the soil.

A detailed, written plan for the containment and clean-up of any leakage or spillage shall be kept on file in the office of the Zoning Administrator and a copy of this plan shall be furnished to the Fire Chief. Any leakage or spillage shall be immediately reported to the Township Zoning Administrator.

3. Stormwater and all other water run-off, whether retained or detained, shall be filtered or purified as necessary to be suitable for introduction to the wetland prior to allowing such run-off to flow or percolate to the wetland area so that the wetland and its waters are not degraded.
4. Discharge of any aqueous or wet or dry materials on the soil of wetlands or lands adjacent to wetlands shall not be permitted unless it can be shown that such material will not, over time, result in the degradation of the wetland and its waters.

**B. DUNELANDS.**

1. Because such soils as defined above percolate at a rate such that:
  - a. Wastes may percolate through the edaphic layer of bacterial activity before acted upon by the bacteria, or
  - b. By passing untreated into ground water sources, wastes may contaminate surface water bodies fed from ground water sources, on-site disposal shall not be permitted unless an on-site sewage system be designed to insure the effluent will not degrade the quality of ground waters. The on-site sewage system shall be located a minimum of one hundred (100) feet from any existing or proposed well location. The system must be approved by the Grand Traverse County Health Department.
2. No in-ground tanks, vessels or bins for the storage of fuels or chemicals shall be permitted.
3. Above ground tanks, vessels or bins for the storage of fuels or chemicals shall be installed in such a way that leakage or spillage of any or all contents will be safely contained and prevented from reaching the soil.

**C. SOILS SUBJECT TO LEACHING.**

1. Where a land use may entail intentional or accidental application or discharge of chemicals, fuels, waste or effluent which could prove harmful to ground water, soil borings and engineering reports analyzing the potential impact shall be required and special conditions shall be imposed to assure that ground water quality and the standards recommended by the County Health Department and the Grand Traverse Soil Conservation District are fully met. In addition, elements of an environmental impact statement may be required (see section 27.15 of this Ordinance).
2. On site sewage disposal will be allowed only if designed such that effluent will not degrade the quality of surface and ground waters.
3. No in ground tanks, vessels or bins for the storage of fuels or chemicals shall be permitted.
4. Above ground tanks, vessels or bins for the storage of fuels or chemicals shall be installed in such a way that leakage or spillage or any or all of their contents will be safely contained and prevented from reaching the soil.

A detailed, written plan for the containment and clean up of any leakage shall be kept on file in the office of the Zoning Administrator and a copy of this plan shall be furnished to the Fire Chief. Any leakage or spillage shall be immediately reported to the Township Zoning Administrator.

**D. STEEP SLOPES.**

1. No structure shall be permitted on a slope of greater than fifteen (15%) percent unless it shall be done in accordance with plans prepared for the site by a registered professional architect or engineer. Plans shall be prepared for the disposal of storm waters without erosion of topsoil and without sedimentation of any stream or other body of water.
2. Prior to approval, such plans for site alterations for steep slope areas shall be provided to the Grand Traverse County Drain Commission for comment or review and recommendation. A permit may be conditioned to require compliance with such recommendations.

**E. SHORELINES.**

1. The plans for filling, grading or other alteration of natural drainage within the shoreline area shall be reviewed and approved by the Planning Commission prior to commencing construction, earth movement or excavating.
2. Whether or not a land use permit is required, except if required by state law or to allow occasional parking sites so that two vehicles may pass, no existing private road and no newly constructed private road shall be more than twelve (12') feet wide, except where necessary to allow access to emergency vehicles. A private road shall mean any road other than a state or county road in the shoreline area.
3. The digging or drilling of wells or domestic water supply sources in the flood plain is prohibited.
4. Setbacks for structures shall comply with section 12.11 of this ordinance.

**F. GROUNDWATER RECHARGE ZONES.**

1. Any land use which will result in the coverage of more than thirty percent (30) of a lot or parcel of land with structures and/or parking and/or storage areas with impervious surfaces shall be designed and constructed in such a way that all run-off water shall be collected, retained, filtered or purified as necessary to be suitable for return by natural percolation to the naturally occurring aquifer, and returned to the land in such a way that the full, natural recharge of the ground water aquifer is maintained. Such plans for land uses shall be provided to the Grand Traverse County Drain Commission for comment or review and recommendations. A permit shall be conditioned to require compliance with such recommendations.

**G. OTHER AREAS.**

1. Archaeologically or historically significant areas and structures: No development, excavation or modification of such areas or structures may be undertaken without first obtaining an Environmentally Sensitive Land Use Permit which shall be conditioned to meet the requirements and standards recommended by recognized experts in the fields of archeology and/or history.

2. Other areas designated by the Township as Environmentally Sensitive Areas, in accordance with Section 27.12 G, may have special requirements for development.

#### **27.15 ENVIRONMENTAL IMPACT STATEMENT.**

The purpose for requiring the Environmental Impact Statement (EIS) is to evaluate the impact of a proposed project on the environmental quality of the project area and adjacent lands. The objective of the EIS is to encourage the development of those projects which protect or enhance the environmental quality of the project area by conserving its natural resources. In reviewing each EIS, consideration will also be given to the effect that the proposed project will have on the immediately adjacent properties as well as upon the entire environs of the Township which may be directly affected by it.

**A.** The Township Board and/or the Township Planning Commission shall require an Environmental Impact Statement for:

1. All development in Environmentally Sensitive areas when three (3) or more acres will be disturbed by development,
2. Any development which, in the opinion of the Planning Commission affects natural features of environmental sensitivity, or of archeological or historical significance which could be damaged or destroyed through alteration or development which is not done according to the requirements of this Ordinance.

**B.** The Township Board and/or the Planning Commission may require that the EIS include drawings, graphics and data including:

1. Name(s) and address(es) of the applicants(s).
2. Ownership (legal and/or equitable and/or beneficial) of applicants holding the proposed site property.
3. Name(s) and address(es) and professional qualifications of the proposed professional design team members, including the designation of the professional coordinator (or person responsible for the preparation of the EIS)
4. Project description and purpose including a descriptive explanation of the project, its nature, location, and purpose.
  - a. Six (6) copies of the schematic development plan of the proposed development showing:
    - b. General site location of the proposed development.
    - c. Major existing physical and natural features such as water courses, rock outcropping, wetlands, wooded areas, etc.
5. Location of the existing utilities and drainageways.

6. Location and names of public streets, parks, and railroad and utility rights-of-way within or adjacent to the proposed development.
7. General location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking, and loading areas.
8. General location and approximate dimensions of proposed structures.
9. Major proposed change of land form as new lakes, terracing, and excavating.
10. Approximate existing and proposed contours and drainage patterns of the area proposed to be developed showing two (2) foot contour intervals.
11. Sketch(es) showing the scale, character and relationship of buildings, streets and open space.
12. Approximate location and type of proposed drainage, water and sewage facilities.
13. Legal description of property.
14. An aerial photo and contour map showing the project site in relation to the surrounding area of the Township.
15. A general narrative, physical description of the site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.

C. The Township Board and/or the Township Planning Commission may require that the EIS include one or more of the following reviews as applicable:

1. **Soil Review-** The soil review element shall include a short descriptive summary of the soil types found in the project area and whether they permit the use of septic tanks or require central sewer. Such report may be based on the "Unified Soil Classification System" as adopted by the U.S. Government Corps of Engineers and Bureau of Reclamation, January, 1952, or similar recognized U.S. Department of Agriculture, Soil Conservation Service System of Classification, and such standards for developability that have been offered for each environmental area.
2. **Natural Hazards Review-** This element consists of a resume of such natural hazards as periodic flooding, poor soil bearing conditions, and hazards peculiar to the site.
3. **Substrata Review-** The substrata review element shall include a descriptive summary of the various geologic bedrock formations underlying the project site. This will include the identification of any known aquifers, their approximate depths and, if being tapped for use, the principal uses to be made of these waters, i.e. irrigation, domestic water supply, industrial.

**4. Surface and Groundwater Review-** The surface groundwater review shall include the identification of all natural and man-made water features in the project site, and shall include the identification of all known confined and unconfined groundwater aquifers and their approximate water level or water table, and may be correlated with item 3., Substrata Review. Since the conservation of the natural sources and resources of fresh water in the Township is absolutely essential and must be a prime consideration, this review should quantify the effects of development on the quality of surface and groundwater, particularly with regard to possible degradation of such waters from sewage disposal.

**5. Storm Drainage Review-** The storm drainage review should clearly indicate how the storm drainage resulting from the proposed development will be handled.

The following aspects must be taken into account in the preparation of the review:

- a. Consider the location of the development in the natural drainage basins;
- b. Consider changes that the development may cause in natural drainage characteristics;
- c. Consider the effects of lake storage facilities on controlling storm run-off water retention, and recharging the aquifer;
- d. Consider the effects of the development on the characteristics of original groundwater recharge areas;
- e. Consider the influences of the proposed facilities on upstream and downstream conditions if along a water body.

**6. Erosion Review-** This review should show how erosion control shall be achieved and shall illustrate such plans, programs or schemes which may be required by any existing Soil Erosion and Sedimentation Ordinance. At a minimum, plans for compliance with the following minimum standards shall be required for construction and post-construction periods:

- a. Surface drainage designs and structures shall be "erosion proof". Control of the direction, volume and velocities which promote natural growths such as grasses, shall be included in the design in order that drainage waters may be impeded in their flow and percolation encouraged. These designs should include trash collection devices when handling street and parking drainage to trap solid waste and trash.
- b. Water course designs should similarly control volumes and velocities to prevent bottom and bank erosion. In particular, changes of direction should be such as to guard against undercutting of banks.

c. Where vegetation has been removed or has not been able to occur on surface areas such as in fill zones, it shall be the duty of the developer to stabilize and control said surface areas to prevent erosion and the blowing of surface materials through the planting of grasses, wind-breaks, etc.

**7. Solid Waste Disposal-** This review should show proposed methods for disposal of ALL SOLID WASTE using one or a combination of the following methods:

- a. Solid waste transfer stations; or
- b. Pick-up service by department of public works or by a licensed private waste hauler.

**8. Potable Water Review-** This review shall describe the source of potable water for each residence or other structure for which potable water may be used.

- a. A letter shall be obtained from the water utility agency committing delivery of water service prior to issuance of any building permits for the development.
- b. Any on-site operation producing excess fresh water must include provisions for the return of the water to the ground water table.

**9. Industrial Waste Review-** This review shall provide:

- a. An air and water pollution efficiency inventory.
- b. Provision for disposal and handling of liquid, gaseous and solid wastes, and,
- c. Provisions for retention and treatment of water used in any industrial or commercial process before being returned to the aquifers.

**10. Sewage Review-** This review shall demonstrate whether on-site septic facilities or central sewer facilities are required for the development, according to the standards of the County Health Department and Waste Water Division of the Department of Natural Resources and this Ordinance.

If the development has its own sewage system or can be connected to an approved central sewer system, the review shall state the provisions for requiring all structures to be connected to the system, along with adaptability of any sewer system without impairment to a present or future public system.

**11. Streams and Water Bodies Review-** The proposed design treatment of natural, created or altered streams and other water bodies should be discussed in this review, focusing attention of pre and post development flow rate, capacity, quality (pollutant level), nature and cover of banks and other relevant factors. This review shall ensure that:

- a. Effluent will not be discharged into such water bodies (from sanitary landfills or sewage);
- b. The natural courses of streams etc. are not substantially altered;

- c. Adequate means have been taken to trap (by natural vegetation or otherwise) and consume fertilizers, pesticides, herbicides and fungicide runoffs;
- d. The water bodies will not be so altered as to cause:
  - Siltation
  - Accelerated Eutrophication
  - Bottom or bank erosion
  - Excessive weed or aquatic plant growth

**12. Flora and Fauna Review.** This review shall include a listing of the dominant terrestrial and aquatic plant species, as well as the major animal species native to the site, if any. Any unusual plant or animal species which may be considered endangered, or which may be considered unique to the area shall be so identified. This review shall:

- a. Describe the effects of the proposed development on the listed species and their habitats, when appropriate.
- b. Describe conservation efforts that will be needed to protect areas (such as dunes) from wind or water erosion and the extent to which the development will destroy vegetation that would ordinarily serve to prohibit such erosion.
- c. Describe the preservation and proposed use of recreation areas and greenbelts, including conservation measures.

**13. Archeological and Historical Resources Review.** This review shall include the identification of all historical features (buildings, cemeteries, town sites, battles, Indian mounds, etc.).

In the site inventory, this review will also pinpoint indicators of unique geological formations and/or natural or artificial historical sites. The developer shall be responsible for the appropriate preservation of geographical, topographical or historical features, whether or not sufficiently significant for action (excavation, study, removal or preservation) by local, state or federal agencies.

**14. Additional Data.** The Township may require such additional data or information as determined necessary in order to make a thorough and exact environmental impact evaluation of the site and the effect of the proposed development.

#### **15. WETLAND DEFINITION:**

"Wetland" means land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.

**B.** Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subdivision shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission of natural resources it has substantially completed its inventory of wetlands in that county.

**C.** Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres of less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subdivision may be utilized regardless of wetland size in a county in which subdivision (B.) is of no effect; except for the purpose of inventorying, at the time. (MDNR - P. A. 295, 1992)

# Whitewater Township Soils

- Ae - Alpena East Lake
- As - Au Gres - Saugatuck
- Cn - Coventry - Newaygo
- Co - Croswell Ow.
- Cp - Croswell
- Cr - Croswell - Rubicon
- Em - East Lake - Mancelona
- Er - Eastport - Roscommon
- Es - Edwards Muck
- Ex - Emmet gravelly
- Ey - Emmet sandy
- Fm - Fresh H<sub>2</sub>O Marsh
- GrA - Gladwin - Richter
- Gs - Gravelly sand
- Gt - Gravel pits
- Gu - Grayling
- Gw - Greenwood peat
- Gx - Guelph - Nester
- Gy - Gullied Land
- Ho - Houghton muck
- Ia - Ingalls - Alpena
- Il Iosco Loamy
- Io - Iosco - Ogemaw Ow
- Is - Iosco - Ogemaw
- Ka - Kalkaska Loamy
- Kb - Kalkaska sandy
- Kl - Karlin loamy
- Ks - Karlin sandy
- Kt - Kerston Muck
- Le - Lake beach - Eastport
- Lk - Leelanau - Kalkaska
- Lu - Lupton muck
- Ma - Mancelona
- Mb - Mancelona loamy sand
- Me - Mancelons - East lake
- Mo - Montcalm - Kalkaska
- Rc - Richter loams Overwash
- Rh - Richter Loams
- Rp - Richter-Tonkey-Pinconning
- Rr - Richter-Tonkey-Pin.Loops
- Rs - Rifle peat
- Rt - Roscommon muck/sand ow.
- Ru - Roscommon mucky/sand
- Rv - Roscommon sand
- Rw - Rubicon
- Rx - Rubicon - Menominee
- Sr - Sanilac - Richter
- Ta-Tawas - Roscommon
- Tm - Tonkey muck
- Tn - Tonkey sandy Ow.
- To - Tonkey sandy loam
- Tp - Tonkey-Hettinger-Pickford
- Tr - Tonkey-Hettinger-Pickford
- Ub - Ubly sandy loam
- Um - Ubly - McBride
- Un - Ubly - Nester
- Wd - Wind eroded land



\* Slope Percentage is indicated by the third letter in the description.  
\* OW = Overwash

Slope  
A= 0-2 % C= 6-12 % E=18-25  
B= 2-6 % D= 12-18 % F=25-45

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>

*MSU is an affirmative-action, equal-opportunity institution. Michigan State*

# Land Use Series

December 23, 2010

## 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.

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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 and to

■ 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

## 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/).

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

## 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/](http://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/](http://www.msue.msu.edu/lu/).

Check List	Step/Task to do	Documents to file	Conclusion
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 1:</b></p> <p>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).</p>	Certified copy of the planning commission's minutes where the decision to begin the review was made.	
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 2:</b></p> <p>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).</p> <p>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.).</p>	Certified copy of the planning commission's minutes or staff's/consultant's report in which data was reviewed.	
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 3:</b></p> <p>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.</p>	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: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.

<b>Check List</b>	<b>Step/Task to do</b>	<b>Documents to file</b>	<b>Conclusion</b>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 3A:</b></p> <p>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.</p>	Completed copy of Appendix A.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 4:</b></p> <p>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?</p> <p>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.</p>	Certified copy of the planning commission's minutes where goals and objectives were reviewed.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 5:</b></p> <p>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?</p>	Certified copy of the planning commission's minutes where developments that impact particular areas were discussed.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.

<b>Check List</b>	<b>Step/Task to do</b>	<b>Documents to file</b>	<b>Conclusion</b>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 6:</b></p> <p>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?</p>	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: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 7:</b></p> <p>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.</p>	Certified copy of the planning commission's minutes where changes in public policies were discussed.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 8:</b></p> <p>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.</p>	Certified copy of the planning commission's minutes where zoning map and capital improvements were discussed.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.

<b>Check List</b>	<b>Step/Task to do</b>	<b>Documents to file</b>	<b>Conclusion</b>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 9:</b> Are there outstanding or decided lawsuits where the community process, plan, or ordinance was called into question and the community lost?</p>	Certified copy of the planning commission's minutes where cases were discussed and copy of judgments against community.	Supports the conclusion that the plan: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 10:</b> Has the community attorney or professional planner advised an update of the plan?</p>	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: <input type="checkbox"/> does not need to be changed at this time. <input type="checkbox"/> needs to be updated with amendments. <input type="checkbox"/> needs to be completely redone.

Check List	Step/Task to do	Documents to file	Conclusion
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 11:</b></p> <p>Based on the conclusions to the preceding steps checked in the fourth column, the planning commission decides:</p> <ul style="list-style-type: none"> <li>The conclusion to each of the above items is “... <i>to not change the plan at this time</i>” (i.e. no change has occurred or the plan is fine) and therefore <b>the plan may stand as adopted</b>.</li> <li>Some of the conclusions to the above items are to “...<i>amend the plan/fact book</i>” (i.e. some amendments are required because of new or updated information) and therefore <b>the plan should be amended</b>. To do so see <i>Land Use Series</i>: “Checklist #1I; Adoption of an Amendment to a Plan” available at: <a href="http://www.msue.msu.edu/lu/">www.msue.msu.edu/lu/</a>.</li> <li>Many or some of the conclusions to the above major items are to “...<i>prepare a new plan and fact book</i>” (i.e. there are substantial changes in the community) and therefore <b>the plan should be rewritten</b>. To do so see <i>Land Use Series</i>: “Checklist #1G; For Adoption of a Plan in Michigan” available at: <a href="http://www.msue.msu.edu/lu/">www.msue.msu.edu/lu/</a>.</li> </ul>	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 <ul style="list-style-type: none"> <li><input type="checkbox"/> not change the plan at this time.</li> <li><input type="checkbox"/> amend the plan/fact book.</li> <li><input type="checkbox"/> prepare a new plan and fact book</li> </ul>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>STEP 12:</b></p> <p>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.</p> <p>If the legislative body approves the expenditure, then proceed with the plan amendment or new plan and fact book.</p> <p>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:</p> <ol style="list-style-type: none"> <li>Do the work in house for lower cost.</li> <li>Expand the task over more than one budget year, so the cost of the task is reflected in more than one budget year.</li> <li>Go back to STEP 11 and re-evaluate the decision in light of the legislative body’s decision.</li> </ol>	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.	<ul style="list-style-type: none"> <li><input type="checkbox"/> Proceed with the decision made in Step 11, as intended.</li> <li><input type="checkbox"/> Do the work in house for a lower cost.</li> <li><input type="checkbox"/> Expand the task over more than one budget year.</li> <li><input type="checkbox"/> Go back to Step 11 and re-evaluate.</li> </ul>

## 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 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.

Minimum Statutory Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
Maps, plats, charts, and descriptive, explanatory, and other related matter. (Sec. 33(1)) A future land use map is required as a part of the land use plan element of the master plan. (Sec. 33(2)(d)) Show the planning commission's recommendations for the physical development of the planning jurisdiction. (Sec. 33(1)) 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)) 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)) 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))					Shall be included
					Shall be included
					Shall be included
					Shall be included
					Shall be included
					Shall be included
					Shall be included

Minimum Statutory Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
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))					Shall be included
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))				If there is zoning, then these elements shall be included	
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.				If there is zoning, then these elements shall be included	
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.)				If there is zoning, then these elements shall be included	
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	

Minimum Statutory Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
<p>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.</p> <p><i>Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction":</i> 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))</p> <p><i>Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction":</i> 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))</p> <p><i>Plans might also include, if "reasonably can be considered as pertinent to the future development of the planning jurisdiction":</i> 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.</p>					If there is zoning, then these elements shall be included

Minimum Statutory Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
<p><i>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:</i> 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.</p> <p><i>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:</i> 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.)</p> <p><i>Plans might also include, if “reasonably can be considered as pertinent to the future development of the planning jurisdiction”:</i> 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.</p>					

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 or 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.

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
<b>General Plan (Only for a county with no zoning)</b> A policy-based plan with generalized future land use maps.					
A section on affordable housing needs and a strategy to meet those needs.					
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.					
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 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.					
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.					

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
Other elements as determined by the planning commission.					
<p><b>Future Land Use Plan</b> (<i>The minimum for a local unit of government with zoning</i>)</p> <p>All of the parts for a general plan, above.</p> <p>The arrangement of future land uses, as well as the intensity and density of such uses</p> <p>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</p> <p>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.</p> <p>A future transportation network, including, but not limited to, roads and streets, bridges, railroads, airports, bicycle paths, and pedestrian ways.</p> <p>Provision for a network of electronic communication facilities.</p> <p>Future capital facilities.</p> <p>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.</p> <p>An explanation of the zoning plan's relationship to the future land use plan.</p> <p>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.</p> <p>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.</p> <p>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</p> <p>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.</p>					

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
<p><b>Comprehensive Plan</b>  All of the parts for a general plan and land use plan, above.</p> <p>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.</p> <p>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.</p> <p>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.)</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>					

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
<p><b>Growth Management Plan</b>            All of the parts for a general plan, land use plan, and comprehensive plan, above.</p> <p>The boundaries for expansion of capital facilities and/or public services of the local units of government during the period of the plan.</p> <p>Maximum density of land use based on available public services and facilities and specified level of service standards for those services and facilities.</p> <p>The plan should be consistent with P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 <i>et seq.</i>) for a purchase of development rights program, and/or to the extent permissible by law, transfer of development rights program.</p> <p>Maps showing the location of proposed future road right-of-way and of other public facilities beyond 5 years in the future.</p> <p>A strategy and locations to target provision of affordable housing.</p> <p>A strategy that links future jobs, housing, and transportation in mutually supportive ways.</p> <p>A strategy for land assembly and redevelopment.</p> <p>Other elements as necessary to implement the growth management or redevelopment goals of the plan.</p>					
<p><b>Include as part of the Plan, or as separate plans some or all of:</b></p> <p>Soil and water conservation.</p> <p>Open space protection.</p> <p>Intergovernmental coordination.</p> <p>Human services, including, but not limited to, childcare services, senior citizen programming, and mental health services.</p> <p>Historic preservation.</p> <p>Coastal zone management.</p> <p>Solid waste management.</p> <p>Energy conservation.</p> <p>Watershed planning and management.</p> <p>Community corrections.</p> <p>Annexation.</p>					

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
Redevelopment.					
Special purpose, sub-area (M.C.L. 125.3835), functional, neighborhood, corridor, or strategic plans.					
<p><b>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:</b></p> <p>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 <i>et. seq.</i>).</p> <p>A development plan adopted by a downtown development authority under P.A. 197 of 1975, as amended, (M.C.L. 125.1651 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>A plan adopted by a housing commission under P. A. 18 of 1933 (Extra Session), as amended, (M.C.L. 125.691 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p> <p>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 <i>et. seq.</i>).</p>					

Plan Content	Where the element is found in the <i>Fact Book</i>	Where the element is found in the <i>Plan</i>	Where the element is found in other adopted plans	Where the element is found in the optional summary, poster, pamphlet, etc.	This is something we want to add to our next plan(s)
A plan adopted by an historic district commission under P.A. 169 of 1970, as amended, (the Local Historic Districts Act, M.C.L. 399.201 <i>et seq.</i> 399.215).					
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 <i>et seq.</i> ).					
A school district plan adopted by a public school district or charter school.					
A sewer or water plan adopted by a local unit or joint sewer and water authority.					
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 <i>et seq.</i> )					
A blighted area rehabilitation plan adopted pursuant to P.A. 344 of 1945, as amended, (M.C.L. 125.71 <i>et seq.</i> ).					
A neighborhood area improvement plan adopted pursuant to P.A. 208 of 1949, as amended, (M.C.L. 125.941 <i>et seq.</i> ).					
A plan for redevelopment of principal shopping areas under P.A. 120 of 1961, as amended, (M.C.L. 125.591 <i>et seq.</i> ).					
Enterprise or empowerment zone plans pursuant to P.A. 224 of 1985, as amended, (M.C.L. 125.2101 <i>et seq.</i> ).					
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 <i>et seq.</i> ).					

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

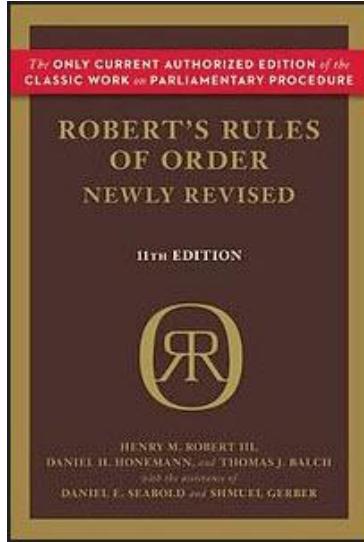
Seldom are plans organized in a format as presented in the above table. The following is a more typical table of contents for a community plan. However, there is not a “right” or “wrong” way, or order, to arrange a plan. A community has a great deal of flexibility in this area. The following is a sample 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<sup>1</sup>
    - 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.

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<sup>1</sup>Recreation plan is often a separate plan/document.



## Robert's Rules of Order - Summary Version

### Introduction to Robert's Rules of Order

#### What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

#### Why is Parliamentary Procedure Important?

Because it's a time tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So it's important that everyone know these basic rules!

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

1. Call to order.
2. Roll call of members present.
3. Reading of minutes of last meeting.
4. Officer's reports.
5. Committee reports.
6. Special orders --- Important business previously designated for consideration at this meeting.
7. Unfinished business.
8. New business.
9. Announcements.
10. Adjournment.

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to order.
2. Second motions.
3. Debate motions.
4. Vote on motions.

There are four Basic Types of Motions:

1. Main Motions: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. Subsidiary Motions: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. Privileged Motions: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. Incidental Motions: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

How are Motions Presented?

1. Obtaining the floor
  - a. Wait until the last speaker has finished.
  - b. Rise and address the Chairman by saying, "Mr. Chairman, or Mr. President."
  - c. Wait until the Chairman recognizes you.
2. Make Your Motion
  - a. Speak in a clear and concise manner.
  - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ..."
  - c. Avoid personalities and stay on your subject.
3. Wait for Someone to Second Your Motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion it is lost.
6. The Chairman States Your Motion
  - a. The Chairman will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
  - b. The membership then either debates your motion, or may move directly to a vote.
  - c. Once your motion is presented to the membership by the chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion

- a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
  - b. The mover is always allowed to speak first.
  - c. All comments and debate must be directed to the chairman.
  - d. Keep to the time limit for speaking that has been established.
  - e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.
8. Putting the Question to the Membership
- a. The Chairman asks, "Are you ready to vote on the question?"
  - b. If there is no more discussion, a vote is taken.
  - c. On a motion to move the previous question may be adapted.

#### Voting on a Motion:

The method of vote on any motion depends on the situation and the by-laws of policy of your organization. There are five methods used to vote by most organizations, they are:

1. By Voice -- The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.
2. By Roll Call -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. By General Consent -- When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division -- This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
5. By Ballot -- Members write their vote on a slip of paper, this method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting.

1. Motion to Table -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. Motion to Postpone Indefinitely -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But, it will only work if you use it properly.

1. Allow motions that are in order.
2. Have members obtain the floor properly.
3. Speak clearly and concisely.

4. Obey the rules of debate.

Most importantly, *BE COURTEOUS*.

### **For Fair and Orderly Meetings & Conventions**

Provides common rules and procedures for deliberation and debate in order to place the whole membership on the same footing and speaking the same language. The conduct of ALL business is controlled by the general will of the whole membership - the right of the deliberate majority to decide. Complementary is the right of at least a strong minority to require the majority to be deliberate - to act according to its considered judgment AFTER a full and fair "working through" of the issues involved. Robert's Rules provides for constructive and democratic meetings, to help, not hinder, the business of the assembly. Under no circumstances should "undue strictness" be allowed to intimidate members or limit full participation.

The fundamental right of deliberative assemblies requires all questions to be thoroughly discussed before taking action!

The assembly rules - they have the final say on everything!

Silence means consent!

- Obtain the floor (the right to speak) by being the first to stand when the person speaking has finished; state Mr/Madam Chairman. Raising your hand means nothing, and standing while another has the floor is out of order! Must be recognized by the Chair before speaking!
- Debate cannot begin until the Chair has stated the motion or resolution and asked "are you ready for the question?" If no one rises, the chair calls for the vote!
- Before the motion is stated by the Chair (the question) members may suggest modification of the motion; the mover can modify as he pleases, or even withdraw the motion without consent of the seconder; if mover modifies, the seconder can withdraw the second.
- The "immediately pending question" is the last question stated by the Chair! Motion/Resolution - Amendment - Motion to Postpone
- The member moving the "immediately pending question" is entitled to preference to the floor!
- No member can speak twice to the same issue until everyone else wishing to speak has spoken to it once!
- All remarks must be directed to the Chair. Remarks must be courteous in language and deportment - avoid all personalities, never allude to others by name or to motives!

- The agenda and all committee reports are merely recommendations! When presented to the assembly and the question is stated, debate begins and changes occur!

## The Rules

- **Point of Privilege:** Pertains to noise, personal comfort, etc. - may interrupt only if necessary!
- **Parliamentary Inquiry:** Inquire as to the correct motion - to accomplish a desired result, or raise a point of order
- **Point of Information:** Generally applies to information desired from the speaker: "I should like to ask the (speaker) a question."
- **Orders of the Day** (Agenda): A call to adhere to the agenda (a deviation from the agenda requires Suspending the Rules)
- **Point of Order:** Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made
- **Main Motion:** Brings new business (the next item on the agenda) before the assembly
- **Divide the Question:** Divides a motion into two or more separate motions (must be able to stand on their own)
- **Consider by Paragraph:** Adoption of paper is held until all paragraphs are debated and amended and entire paper is satisfactory; after all paragraphs are considered, the entire paper is then open to amendment, and paragraphs may be further amended. Any Preamble cannot be considered until debate on the body of the paper has ceased.
- **Amend:** Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions
- **Withdraw/Modify Motion:** Applies only after question is stated; mover can accept an amendment without obtaining the floor
- **Commit /Refer/Recommit to Committee:** State the committee to receive the question or resolution; if no committee exists includes size of committee desired and method of selecting the members (election or appointment).
- **Extend Debate:** Applies only to the immediately pending question; extends until a certain time or for a certain period of time
- **Limit Debate:** Closing debate at a certain time, or limiting to a certain period of time
- **Postpone to a Certain Time:** State the time the motion or agenda item will be resumed
- **Object to Consideration:** Objection must be stated before discussion or another motion is stated
- **Lay on the Table:** Temporarily suspends further consideration/action on pending question; may be made after motion to close debate has carried or is pending
- **Take from the Table:** Resumes consideration of item previously "laid on the table" - state the motion to take from the table

- **Reconsider:** Can be made only by one on the prevailing side who has changed position or view
- **Postpone Indefinitely:** Kills the question/resolution for this session - exception: the motion to reconsider can be made this session
- **Previous Question:** Closes debate if successful - may be moved to "**Close Debate**" if preferred
- **Informal Consideration:** Move that the assembly go into "**Committee of the Whole**" - informal debate as if in committee; this committee may limit number or length of speeches or close debate by other means by a 2/3 vote. All votes, however, are formal.
- **Appeal Decision of the Chair:** Appeal for the assembly to decide - must be made before other business is resumed; NOT debatable if relates to decorum, violation of rules or order of business
- **Suspend the Rules:** Allows a violation of the assembly's own rules (except Constitution); the object of the suspension must be specified

Taken from: <http://www.robertsrules.org/>